Public Utilities

FORTNIGHTLY

December 4, 1947

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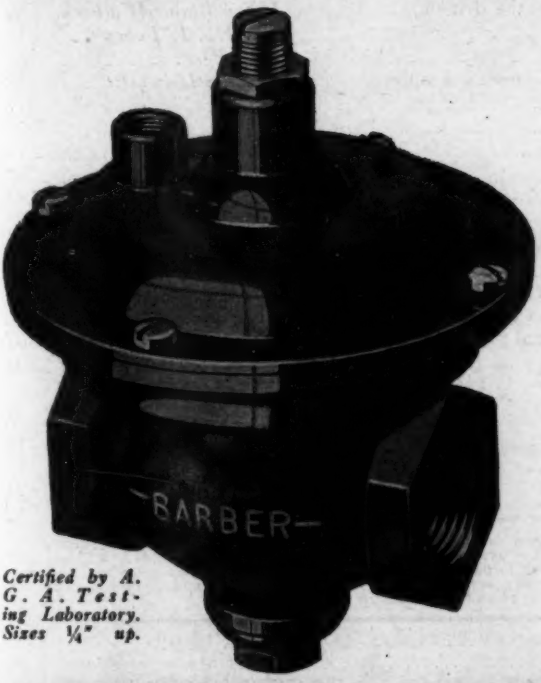

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Public Utilities Fortnightly

VOLUME XL *December 4, 1947* NUMBER 12

Contents of previous issues of PUBLIC UTILITIES FORTNIGHTLY *can be found by consulting the "Industrial Arts Index" in your library.*

¶ *This magazine is an open forum for the free expression of opinion concerning public utility regulation and allied topics. It is supported by subscription and advertising revenue; it is not the mouthpiece of any group or faction; it is not under the editorial supervision of, nor does it bear the endorsement of, any organization or association. The editors do not assume responsibility for the opinions expressed by its contributors.*

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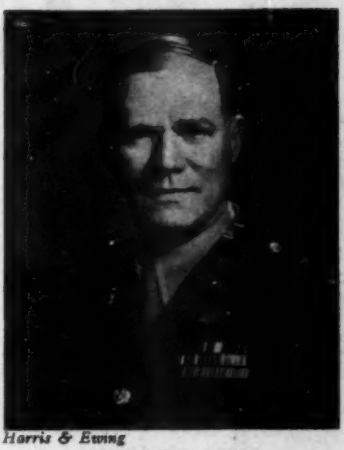
Pages with the Editors

SHOULD protection of the free enterprise system be incorporated as a condition to granting foreign loans to aid European countries? This is an interesting question which has become very pressing during the consideration of the Marshall plan by the special session of Congress.

THAT there is something to be said on both sides was evidenced in a discussion which recently took place in New York city at the annual dinner of the Academy of Political Science. Lewis H. Brown, chairman of the Johns-Manville Corporation, favored imposing such conditions (to further foreign aid) as a "practical matter." He said that if British investors would not risk further investment in production capacity so long as nationalization is threatened, then the American taxpayers should not be forced into the position of taking the risk of promoting the stagnation of British industry through a government committed to further nationalization.

LORD Inverchapel, British Ambassador to the United States, however, pointed out that the British Labor government is only doing what it was elected to do, by the British people, and that outside interference with such a domestic policy might properly be resented. He also observed that only 20 per cent of British economy was to be nationalized, and that "every encouragement would be given to private industry outside the nationalized section."

WHEN we read news accounts of the latest taxes and other restrictions to be imposed on private industry in Great Britain still trying to function "outside the nationalized section," there might be some skepticism about the value of such "encouragement." But Lord Inverchapel also points out that the hardship and restrictions now being suffered in England would obtain regardless of the nationalization program.



Harris & Ewing
CHARLES P. GROSS

WE certainly know by experience in this country that if there is one thing local voters resent, it is the attempt of outside influences to dictate home policy. The late President Roosevelt found this out when he attempted to "purge" recalcitrant Congressmen of his own party at the local polls during the late Thirties. The CIO unions found that outside influence was a boomerang when it attempted to stampede a recent special congressional election in Pennsylvania with campaign talent largely imported from New York. It is a fair question, therefore, whether Yankee "dollar diplomacy" would not be self-defeating if we attempt to tie strings on the Marshall

plan and then pull the strings from this side of the Atlantic.

On the other hand, the Marshall plan itself recognizes the danger and futility of extending aid to foreign countries which already have fallen under the shadow of communist influence. The very purpose of the Marshall plan is to fortify resistance against Marxist ideology, which means 100 per cent nationalization. Yet, to do this, we might find ourselves in the position of bailing out governments committed to 20 per cent nationalization (or more, as in the case of some other European countries even more socialistically inclined than Great Britain). At what point, therefore, does the extension of foreign aid with American dollars cease to be a protection of our own national security?

Perhaps, before it is necessary to make a decision on this difficult question of sending our good money after somebody else's bad policy, the people of Great Britain will have found out for themselves, *the hard way,* whether their present policies are living up to advance promises. Recent Conservative gains in the municipal elections suggest that another hard winter might wind up the nationalization program ahead of schedule and far short of completion. If so, there is little doubt that it would be better that such a decision would best come from the British people themselves, without the taint of "outside influence."

•

An interesting on-the-spot account of how the European idea of utility regulation tends to blend successively into regimentation and finally nationalization, is the subject of one of the feature articles published in this issue. It is written by Helen Blaine Walker, whose name will be readily associated by many readers of this publication with reference to her late father, James Blaine Walker, for many years secretary of the National Association of Railroad and Utilities Commissioners. Miss Walker is now a resident of London, and, with her American background, she has made good use of an opportunity to give us a slant on contemporaneous British living conditions.

FRANKLIN J. TOBEY

The leading feature article in this issue is from the pen of a retired Army officer, Major General Charles P. Gross, who until very recently was chairman of the New York city board of transportation. Born in Brooklyn in 1889 and graduated from the U. S. Military Academy Engineering School in 1916, General Gross served in World War I with the 318th Engineers of the AEF. He advanced through the grades to Major General in August, 1942, after tours of duty with the Corps of Engineers in New England, California, Nicaragua, Rock Island, and the Army War College. During World War II he became chief of transportation of the Army service forces. In 1945 he was appointed by the late Mayor LaGuardia to the chairmanship of the board of transportation, a post which he resigned, effective October 21, 1947.

* * * *

Clay Perry, whose article on "A Forgotten Pioneer" begins on page 762, is a professional writer on historical subjects, now resident in Cheshire, Massachusetts. Frankin J. Tobey, whose article on "Transit History Repeats" begins on page 756, is a new member of our own editorial staff.

The next number of this magazine will be out December 18th.

The Editors

In This Issue

In Feature Articles

In Washington and the Utilities

In Exchange Calls and Gossip

In Financial News

In What Others Think

In The March of Events

In The Latest Utility Rulings

PREPRINTS FROM PUBLIC UTILITIES REPORTS

Various regulatory rulings by courts and commissions reported in full text, pages 129–160, from 70 PUR NS

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

WOODRUFF RANDOLPH
President, International Typographical Union.

"A trade union has to exist by control of the labor supply."

HARRINGTON WIMBERLY
Member, Federal Power Commission.

"After all, it is the state commissions which make utility regulation effective."

Excerpt from statement, National Association of Manufacturers.

"Management should strengthen its communications program with its employees and utilize it consistently and often."

LESLIE WILLIAMS
Secretary, city planning division, American Society of Civil Engineers.

"Since streets in most downtown areas can rarely be widened, the quickest logical way to relieve the congestion and parking problems is to keep as many private automobiles as possible out of the area."

JACK TARVER
Columnist, The Atlanta Constitution.

". . . before the invention of the telephone, our means of communication were extremely primitive. Still, they had their advantages. So far as I can determine, nobody ever began a smoke signal conversation with a coy, 'Guess who this is.'"

JOSEPH W. MARTIN, JR.
Speaker, U. S. House of Representatives.

"We must enlist the aid of private sources willing to expand venture capital in rebuilding industries. With government support, private enterprise can reduce the burden upon the American taxpayer and substantially cut government costs."

EDITORIAL STATEMENT
The Washington Daily News.

"Cheap politics took Mr. Hoover's name off the great structure on the Colorado river. Almost all Americans, we think, will applaud its restoration. Of course, Harold Ickes won't like it—but there are so many things Mr. Ickes doesn't like that one more won't make much difference."

WILLIAM T. FARICY
President, Association of American Railroads.

"Already there are signs that the American people are realizing in increasing degree that it is to their best interests to have a well-supported transportation machine. If the railroads are given adequate earnings, the country will see transportation service going on to new heights of efficiency as yet undreamed of."

Post hole digger operated from the "Power-Wagon's" tail shaft.

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EDITORIAL STATEMENT
The (Washington, D. C.) Evening Star.

"The latest debate in the House of Commons on the state of Britain's economy makes doleful reading for those who believed that a formula for solving economic problems had been found in the adoption of limited Socialism."

DWIGHT D. EISENHOWER
Chief of staff, U. S. Army.

"The average American surely realizes that, in event of a conflagration, the initial step would include an effort against the industrial areas of North America in the vicinity of the Great Lakes and the St. Lawrence river valley."

EDWIN M. MARTIN
Vice president, Farnsworth Television & Radio Corporation.

"Banks and business are placed irrevocably in the front line of action against the foes of the whole American system of free enterprise. Let us not wait until grave inroads have been made inside our own walls before we move to the defense."

EDITORIAL STATEMENT
The (New York) Sun.

"In this crucial postwar year . . . it is well to find leading economists reiterating a basic truth, that investment in new patents for profit forms the bedrock of national prosperity. A primary aim of the present Congress should be to make that kind of investment more attractive, by reason of reduced interference from government, than it has ever been in this generation. That way leads to decades of prosperity."

R. E. WOODRUFF
President, Erie Railroad.

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EARL BUNTING
President, National Association of Manufacturers.

"We simply cannot continue the substantial confiscation through taxes of upper bracket incomes and expect to have enough money to invest in the opportunity for greatness which lies before us. Only if there is an increasing supply of venture capital can there be more jobs, better jobs, steadily rising real wages, more purchasing power, and a chance for every American to achieve a future worthy of the name."

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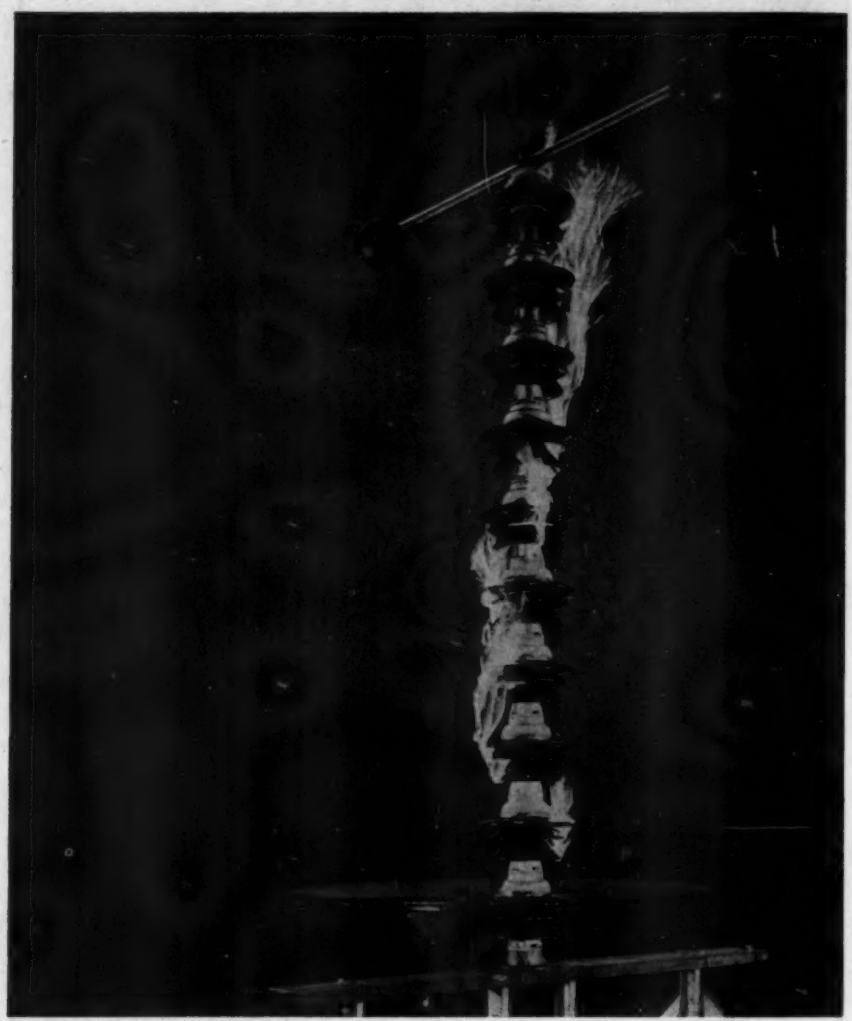
Utilities Almanack

DECEMBER

4	Th	¶ *Oklahoma Telephone Association begins convention, Oklahoma City, Okla., 1947.*
5	F	¶ *American Society of Mechanical Engineers ends annual meeting, Atlantic City, N. J., 1947.*
6	Sa	¶ *Society for Experimental Stress Analysis ends annual meeting, New York, N. Y., 1947.*
7	S	¶ *American Gas Association, Home Service Committee, will hold meeting, Chicago, Ill., Jan. 21–24, 1948.*
8	M	¶ *Eighth International Heating Ventilation Exposition will be held, New York, N. Y., Feb. 2–6, 1948.*
9	Tu	¶ *Association of Southern Agricultural Workers will hold convention, Washington, D. C., Feb. 12–14, 1948.*
10	W	¶ *New England Gas Association will hold annual meeting, Boston, Mass., Mar. 18, 19, 1948.*
11	Th	¶ *Southern Gas Association will hold annual convention, Galveston, Tex., Mar. 24–26, 1948.*
12	F	¶ *Mid-West Regional Gas Sales Conference will be held, Chicago, Ill., Mar. 29–31, 1948.*
13	Sa	¶ *American Gas Association, Natural Gas Department, will hold convention, Houston, Tex., Apr. 4, 5, 1948.*
14	S	¶ *Gas Appliance Manufacturers Association will hold annual meeting, Chicago, Ill., Apr. 5–7, 1948.*
15	M	¶ *American Gas Association, Industrial and Commercial Gas, will hold sales conference, Windsor, Canada, Apr. 7–9, 1948.*
16	Tu	¶ *Edison Electric Institute-American Gas Association will hold accounting conference, St. Louis, Mo., Apr. 12–14, 1948.*
17	W	¶ *Acoustical Society of America will hold convention, Washington, D. C., Apr. 22–24, 1948.*



Courtesy, Locke Insulator Corporation

Million Volt Flash-over

A stack of switch insulators is flashed over at approximately 1,000,000 volts during tests conducted in the F. H. Reagan Hi-Voltage Development Laboratory (Baltimore).

Public Utilities
FORTNIGHTLY

VOL. XL, No. 12 DECEMBER 4, 1947

Can New York's Transit Ills Be Helped?

They can, in the opinion of the author, by the combination of action on the fare issue with that of increasing the real estate tax limit from 2 to 2.5 per cent.

BY MAJOR GENERAL CHARLES P. GROSS, USA-RET.*

THE major need to rehabilitate and enlarge the New York City Transit System to give decent and adequate service on the existing system is money. That need is not being effectively met. Political fear on the part of the city administration dominates the situation rather than the requirements of proper service to a patient public. At the moment only sheer inescapable necessity gives hope for action that may ameliorate conditions. Even then, halfway measures are to be expected rather than decisive solution.

Years of receivership and years of war left the transit system run down. The replacement of old equipment, the maintenance long deferred of power, shop, track, and station facilities, the lengthening of old 6-car platforms require an expenditure of $280,000,000-$300,000,000. This sum should have been spent as fast as possible for the urgent need has long existed. About $80,000,000 was allocated for the

* For personal note, see "Pages with the Editors."

calendar year 1946 on the expectation that it could not be spent. When most of it was, the amount for 1947 was reduced to $47,000,000, although in that year $150,000,000 could readily have been obligated. In 1948, because of the city's financial difficulties, only about $37,000,000 of new money is contemplated at the moment. We go at about one-fourth speed.

Even with such rehabilitation, intolerable congestion remains. The existing subway system just does not have enough arteries in the terminal area of Manhattan. Because of this lack of capacity to receive, the existing lines in the boroughs of origin cannot be fully employed — because headway between trains cannot be reduced. To relieve congestion, construction embracing a new artery in Manhattan, relief of certain bottlenecks in the outlying boroughs, direct service from the bridges across the East river from Brooklyn to midtown Manhattan, at a cost of about $400,000,000 is essential.

There is then needed a remaining $160,000,000 for rehabilitation and $400,000,000 for construction or some $560,000,000 of capital funds to give the public adequate service with some approach to decency. The city administration for all city purposes states that it must limit its capital expenditures to $106,000,000 for 1948 and will not have that much for 1949. It should hardly be necessary to add that the requirements for new schools, hospitals, sewers, and other works are also desperate, flowing from the same causes. Inflationary costs only aggravate the resulting financial stringency.

EMBARRASSMENT, however, assails us also on the front of the city's expense budget where funds come from the real estate tax, the general fund, and certain state and Federal contributions for definite purposes. Here we have a transit operating deficit of $18,000,000 for the fiscal year 1947 to be added to a debt service of $57,000,000, for a total deficit in the fiscal year 1947 of $75,000,000. Of this sum, the debt service is borne by extra tax upon real estate.

The tabulation outlined on page 747 may be helpful.

A 10-cent fare on rapid transit would yield $183,000,000; a 7-cent fare on surface lines, $34,000,000; and other revenues, $5,000,000; or a total sum of $222,000,000.

Such fares, therefore, would just barely be self-sustaining in the fiscal year 1949 and might lose that character if inflationary forces drive wages still higher than those now prevailing, which are already exceeded in the industry.

The great virtue of a self-sustaining fare is that it would release for capital expenditure approximately $400,000,000 of presently nonexempted subway debt. Were this all made available for transit purposes, it might swing the whole subway construction project. But it is far more reasonable to suppose that other city needs will share in its expenditure. The relief, however, from the throttling handicap of insufficient capital funds would be great.

Remaining capital funds for transit purposes would then have to come by state constitutional amendment. If action is requested at the next meeting of the state legislature, the money could not become available until after ratification by the electorate in November of 1949.

It should be evident that early solution even with action initiated now is not in the cards. The self-sustaining character of a fare must be established by a year of operation before the non-exempted debt is released. Constitutional amendments require a minimum of two years in legislation and then ratification at the succeeding November election.

A self-sustaining fare would also relieve the city's expense budget of about a $90,000,000 load, if wages are not increased. However, to relieve the landlords of the debt service of about $60,000,000 has no merit in the eyes of the politician who fears the cries of the leftist fringe against a higher fare to benefit a minority, all of whom are pictured to be wearing silk hats.

In all justice it can hardly be claimed that relief of the landlord from present burdens in the face of mounting city costs can be properly considered as a necessary objective. The goose that lays the golden egg needs protection, but its nurture in time of stress is beyond reasonable expectation.

It is natural, therefore, that in shying away from that political danger the city administration flirts with an 8-cent fare, two for 15 cents, and that other monstrosity, the 5-cent in rush hours and 10 cents in nonrush solution, despite its overwhelming need for the capital funds that only a self-sustaining fare would make available. Even these propositions are so timidly foisted that not even the editorials of applause for courage prevent the scamper to cover from fear of dangers unknown. And from this shelter the city takes over the operation of private surface lines as they progressively collapse to aggravate its problem.

But necessity must soon scare fear away. When that time comes it seems to me the real solution of a self-sustaining fare can be had if the benefits to real estate are removed. This can be done by combining action on the fare issue with that of increasing the real estate tax limit from 2 per cent to 2.5 per cent. Real estate would be relieved of about $60,000,000 by a self-sustaining fare but would be laid open to an additional tax of $80,000,000 to balance it. There is no question but that that load in an increasing expense budget can rapidly be transferred to real estate.

The benefits from such a solution would be an increased transit income of about $90,000,000 and an increase in tax receipts of $80,000,000 for other purposes than debt service, plus the availability of $400,000,000 for capital expenditure.

Let no one believe that a 10-cent transit fare will be self-sustaining for new indebtedness. Once great capital

	Fiscal Year 1947	*Fiscal Year 1948*	*Fiscal Year 1949*
Income in millions	133	131.7	131.7
Outgo in millions	151	158.7	162.2
Debt in millions	57	57	58.3
Total cost in millions	208	215.7	220.5
Deficit in millions on the basis of no further wage increases.	75	84	88.8

expenditures are made for rehabilitation and construction, carrying charges approximately of $30,000,000 to $35,000,000 will have to be borne as a debt service unless the fare is increased to say 12 cents. A labor demand of 20 cents an hour more would cost another cent in fare. A 40-hour week would cost an additional cent, if granted. The costs of transportation are real and should be met. New York should no longer share with Moscow the distinction of a subsidized subway, particularly when Moscow does the job so handsomely and New York so miserably.

Another ill, that of political domination, flows largely from lack of money, lack of credit, which equates to lack of independence.

THE control of money expenditures in New York city, while definitely honest, is awkward and time consuming. Five months often elapse between initiation and approval by the board of estimate. Federal government practice, equally honest, is chain lightning in comparison.

Three-man executive direction in the board of transportation is an anomaly that creates dissension, that freezes the initiative of the staff subordinates, and that leads to political interference because of the nature of their appointment. The chairman should be the executive voice of the board but is not. All three call and give directions to the staff in so far as each one-third voice is concerned. One gives a green light, another a threatening harangue, and a third may vacillate from green to red, turn yellow, and run to the mayor for the answer. Meetings of the board under such circumstances can become emotional debauches. Initiative on the part of a subordinate is an adventure into trouble. A strong recommendation may be dangerous; a timid submission of alternative plans for the consideration of the board is more politic; inaction is safe and often brings its reward. The organization cannot attain real efficiency unless it is dominated by one man or unless two are in strong agreement.

These considerations lead naturally to the thought of an authority to govern the New York city transit system on the pattern of the New York Port Authority.

Like that authority, it would be as strong as its credit. Unless it were financially independent, little would be gained. It would therefore have to fix the fare at 10 cents and 7 cents at once and to a higher rate, possibly two for a quarter, not long thereafter. With the long 5-cent fare background, it would have to be divorced from politics and politicians for it would have to be courageous enough to withstand initial attack and unpopularity. To attain that, a large board of seven or more men should form the authority. In order to get men of proper caliber and discourage the politician, they must be unpaid. They should appoint a general manager in executive charge. A good manager can readily get a majority of such a board to support him by their policy decisions and can then do the executive job that must be done. In many details the New York Port Authority provides a model.

A TRANSIT authority therefore means the immediate adoption of a 10-cent fare on rapid transit and 7 cents on the surface lines and its withdrawal

from politics. The present city administration has been unwilling so far to permit either. The one force that may make an authority acceptable to that administration is the inescapable necessity for some fare increase and the desire to have someone else make the decision so long regarded as fatal by politicians.

In contemplation of the long delay in the appearance of a Calvin Coolidge to correct the transit situation, it is amazing that the political risks to be taken by some thirty men should so long neutralize the wishes of some 7,500,000 daily riders. It is characteristic of New York that those 7,500,000 are so patient, expect so little, remain so voiceless, accepting the debate between the left fringe and the real estate organizations as sufficient to express their interest, and are so sympathetic to the political fortunes of their representatives that they applaud a whispered approach to a higher fare as almost Napoleonic.

Necessity will bring some action. Isn't it about time the living room orators step into the public forum to influence it?

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"WE who are working at the new developments in machine tools and we who are concerned with the latest applications of electrical engineering in machine tool control and operation know that our curve of progress in the future will likely incline upward faster than heretofore.

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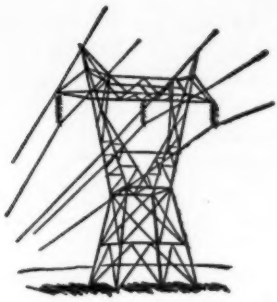
—A. G. BRYANT,
Vice president, National Machine Tool Builders' Association.



Now Everything Is "Utility" To the British

An American visitor to postwar England finds that a new concept of the word "utility" is being driven into the consciousness of the British citizen, as the older public utility industries are absorbed by nationalization, and the Labor government proceeds with more and more economic regimentation.

By HELEN BLAINE WALKER*

Words are like people. The years make changes in their meaning. History alters their significance; and the alterations are all the more marked when time has been spun out against the somber background of tragedy. Such has been the case of the word "utility" — comparing its usage in the United States with that of Great Britain.

Last June I left a country where that word conjures a vision of a great power center, a mighty gas pipe line, or a gigantic telephone system. The word has become a symbol of man's achievement in harnessing natural forces to serve himself. That country is the United States of America. I came into a country from which we Americans took our independence—and our national language.

I came to England particularly curious about this word which is a unit of the vocabulary we share with the English. But within the eight years which had elapsed since my last visit to Britain in 1939, a war had been waged and won — and Labor, presumably much concerned with utilities as we conceive them at home, had taken over —taken over the government, the coal mines, and was even then in process of taking over the railways. The English telephone (God help it!) had long since passed to government control; the telegraph had been from the start a part of the nation's postal system (any telegram filed after 6 PM is sent out by post, so you might just as well send a letter!); the "wireless" (radio,

*For personal note, see "Pages with the Editors."

to us) was continuing as it had begun, under quasi government control; while privately owned gas had begun to flicker and electricity to crackle to the prospect of early "nationalization."

IN the England of 1947 I found all these public services functioning after their own fashion and, as to be expected following the war, not without flaw. But the public, having only latterly elected a Labor government, seemed startlingly indifferent to them as utilities facing eventual total nationalization. It was rather the word "utility" in a different sense now uppermost in their concern. In 1942 the word had begun to take on a new significance for the British people, one that has grown to such an importance as practically to obliterate in their consciousness, for the time at least, any other meaning.

Utility, in the England of today, implies the very material substances for living (apart from food) without which the public utility services in the older conventional sense would be of little meaning. Of what use a gas fire, if no pot to set boiling over it? What good is radio transmitting without a service receiving set? In short, utility to the British means a bare-bones collection of skimped furniture, clothing, household furnishings, about every material thing (except food) the citizen must live with, and upon which the government can and does impose economies of materials and production.

Using the word in this sense, the utility program, a war measure decreed by the Board of Trade in 1942, was designed out of sheer necessity for the conservation of materials. It has lapped over into England's lean, postwar years and bids fair to remain a fixture for a long time to come. At present in England, every daily, simple attribute of civilized living is a utility. Women wear utility dresses and shoes; men, utility suits and underwear; meals are cooked on utility stoves in utility pots and pans; cigarettes (if any) are lit by utility lighters; and homes are furnished with utility furniture.

IN its simplest definition to the British, utility has come to mean an object, made or manufactured with the minimum amount of material. Utility dresses, shoes, and suits are "skimpier" than their prewar counterparts, with "trimmings" practically nil; stoves, pots, and pans are smaller; utility furniture appears more or less undersized and of a severe simplicity. All are made to comply exactly with government specifications. No manufacturer dares vary a fraction from the precise measurements imposed by a government first pressed by the necessities of war, now harassed by the shortages of peace. It is not only that a great many ordinary, everyday objects have dwindled in size to somewhat Lilliputian dimensions — it is, unhappily, that there are seemingly not half enough of these to go around.

I think it was the young bride who first drove the stark truth of this utility program home upon me. She had been married a year, and during that time she and her husband, a former serviceman, had been trying with ample means to furnish a small home. She invited me to tea and I entered a living room indeed sparsely furnished. It held but two chairs and one divan, all obviously new and of the straight,

box-like lines typical of utility furniture. There were a few heterogeneous, make-shift pieces scattered about which she explained had been obtained at "secondhand" for use until she could replace them with the many new things which were really needed.

"You see," she said, "all the furniture you are permitted to buy at first is 30 units—and 30 units do not even adequately furnish one room. You have to wait eighteen months before you can purchase another 30 units—and with 60 units in all, you've only got enough furniture for about a room and a half. Unless we buy antiques—and at what a price!—I'll be an old lady before our home is really furnished!"

All this had been on the negative side, but to every negative there is always a positive. One day not long after, by sheer coincidence, I was invited to inspect a plant which manufactures a large percentage of England's much-sought utility furniture. In a country whose postwar period has brought not only millions of new families (the generation that grew up and married during the war) but also many of whose millions were "bombed out" of their homes and lost the possessions of a lifetime, it does not take much imagination to understand the demand for new furniture.

With the underprivileged bride fresh in my memory, I fared forth one day to Tottenham which lies only eight miles from the center of London. I was on my way to visit the works of Harris Lebus Limited, "the largest furniture manufactory in the world."

"What?" said I. "Surely, Grand Rapids—."

But no. No single furniture factory in the United States or anywhere else in the world turns out as much furniture as does this English company. Before the war, its annual output was really prodigious. Today, in spite of government restrictions and shortages, it is still prodigious. The market for its goods is the whole of the British Isles, with the temporary exception of Northern Ireland.

If ever there was one, Harris Lebus is a "family business." Founded almost one hundred years ago in 1854 by the grandfather of the present chairman of the board, Sir Herman Lebus, the business has been carried on through three generations, through three of England's wars, and into 1947 under the direct control of members of the family. Only last July were some shares introduced into the open market.

It was this family aspect which interested me most in a tour of the vast plant. In Dickens I had read of such long-established hereditary enterprises, remaining in one English family for several generations, and had found a

¶ "At *present, in England, every daily, simple attribute of civilized living is a utility. Women wear utility dresses and shoes; men, utility suits and underwear; meals are cooked on utility stoves in utility pots and pans; cigarettes (if any) are lit by utility lighters, and homes are furnished with utility furniture.*"

certain romance in the idea, lacking in our own more volatile, ever-changing commercial history.

Possibly it is the fact that every foreman or executive with whom I spoke told me that he had "started with Harris Lebus as a lad and worked his way up." Something like the Bell Telephone system in America, the policy of the partners has always been "to look about within our own ranks for a successor to any important post. We don't like seeking elsewhere for our keymen." I talked with employees who had been with the company for fifty years, who had started at seventeen, and now at sixty-seven were still doing a worth-while job.

The plant is spread out over 30 acres of island land on the river Lea, giving it water connections with the Thames, London, and the sea. There are also railroad connections. During the war it was converted to aircraft production but is now entirely reconverted to civilian furniture production.

WHEN the war started, Sir Herman (knighted for his war service) had a room and bath outfitted for himself at the plant and slept there nightly.

"We were lucky," he explained, "with night and Sunday shifts at work, and bombs dropping everywhere. We got only a few bombs which didn't do too much damage. A canister of several hundred incendiary bombs narrowly missed us, falling on the wasteland just across the road."

"I'm interested in utilities," I remarked. "How was your plant affected by the power shut-offs of last winter?"

"Not as seriously as most firms. We generate our own power," he explained. "The chips from cut timber are sucked up everywhere by an automatic system and conveyed to the boiler plant for fuel. We don't need much coal and when we think of utilities we think of utility furniture."

Asked whether there was any difficulty in obtaining machinery, he said simply: "We make much of our own machinery."

With the river at one side, the railroad at the other, with its own power plant and machine shop, it began to appear that Harris Lebus was a self-contained, independent kingdom. The only curb on that independence seemed to be the utility program itself. These great machines, created for mass production—in collaboration with which as many as 8,000 workers are now restricted as never before—turning out solely furniture designed, cut, planed, and veneered to government specification. For how long?...

AS they moved along on the production belts, I watched the rather diminutive pieces now complete save for their final coat of finish. Here girls were at work, clad in attractive blue overalls, bending and swaying with sprayers of liquid over the pieces moving slowly past them on the line. They looked for all the world like the chorus of a musical comedy. The government-designed furniture is not entirely graceless, but the underprivileged bride should have a taste for modern art if she is to be at all happy with it. It is definitely a thing of cubes —not a curve in a carload.

"We're turning out all the furniture we can get wood for," explained an executive. "Before the war we imported

Skilled Craftsmen in England

". . . skilled craftsmen have almost vanished in England. Hampered by shortages, by the utility program, older craftsmen are unable to teach the younger. A new generation has taken over, which knows only how to cut and fashion according to the limited utility pattern set by the government."

the great bulk of our timber. Now we must content ourselves as much as possible with home-grown varieties."

Meantime, the giant machines went on turning out the utility furniture; all of the same pattern, as alike as peas in a pod. Those who stand to the left will tell you that such bonds are not shackles of Socialism, but shackles of postwar shortages. Nevertheless, if and when the shortages vanish, will a socialist government still continue to set the music to which the great machines of England will play? Even those to the left will admit that a socialist state could hardly have built the unique business that was built by the Lebus family, which, through the "profit motive," became in three generations the world's largest furniture manufactory. So had it flourished in a capitalist state—and in turn was able to serve that state well. But will it continue to flourish in a socialist state?

To borrow from Churchill, the "blood, sweat, and tears" of its founders went into its fashioning, that both an occupation and a source of income should descend from father to son. Human nature gives freely of sacrifice to its offspring. But to the impersonal state? To the ideal of the brotherhood of man at large?

FROM feeling sorry for the underprivileged postwar bride, I passed to feeling sorry for the underprivileged British postwar industrialist. The one is forced to use utility furniture; the other to make it — but both share a common aversion to it.

On a later afternoon, I talked with John Goodenday, managing director of Bondor Limited, one of the largest manufacturers of women's hosiery and underwear in England. His firm is turning out huge quantities of utility stockings and utility underthings—all made also according to government specification.

"One of the worst things about the

utility program," he remarked, "is that it is stultifying competition among the industries. Our English industrial system grew and thrived upon the spirit of competition. What's going to happen to it now? How are we to compete with other nations, if we kill competition at home?"

Several manufacturers have admitted to me that skilled craftsmen have almost vanished in England. Hampered by shortages, by the utility program, older craftsmen are unable to teach the younger. A new generation has taken over, which knows only how to cut and fashion according to the limited utility pattern set by the government.

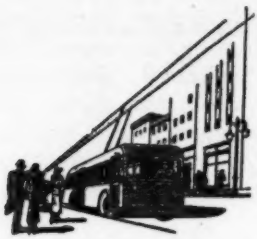
THE new export program, as expounded by Sir Stafford Cripps, president of the Board of Trade, is something else to harass British industrialists. It imposes on manufacturers an obligation to divert substantial proportions of their production to export. If they do not coöperate, they will be deprived of raw materials and labor which will be diverted to those industries which can export a sufficient proportion of their production to be satisfactory to the Board of Trade.

One of England's leading engineers, the head of a large engineering concern, confided to me that it had taken him and his company a full twenty-five years to learn profitably the business of export. "The government," he said, "without practical experience of this sort, seems to think it's all very simple — almost that any child can learn it overnight. 'Just go ahead and export,' they say. But it's not as simple as all that. Among other complicated factors, a firm requires a staff of technical experts, highly paid specialists, to advise on a thousand facets of the export trade. With the best will in the world, the government could not possibly supply the intricate information peculiar to each varied item intended for export, nor the qualified experience necessary in each case. It's absurd to expect British industrialists, whose factories are geared to a non-export program, suddenly to become successful exporters overnight."

THE same engineer told me that recently his firm had purchased two timber-producing forests in Africa which they had wanted for some time. Needing a shipload of timber immediately to continue production, they were told by government officials that they could not possibly be permitted to bring into the country at this time that amount of timber. Of their own timber, they would only be allowed to bring in such a small amount as to appear ridiculous against the amount urgently needed. "And now we're wondering just how we can meet the requirements of the export standard required of us by the government," he added humorously.

In the United States, within the past few decades, we have often heard the cry:

"Too much government in business!" But apparently we "ain't seen nothin'."



Transit History Repeats

An old ghost is again haunting the transit business—it is the specter of insolvency.

By FRANKLIN J. TOBEY*

For the intervening thirty years (*i.e.*, since 1917) the constant specter at the industry's feast has been the difficulty of developing revenue sufficient not only to meet operating costs and the fixed charges on capital represented by properties becoming obsolescent at an ever-increasing rate, but also to write off such outmoded properties at a pace not so slow as to push public patience past the breaking point nor so fast as to push the companies into bankruptcy.—*From the address of Morris Edwards, vice president of Cincinnati Street Railway Company, delivered at Atlantic City, New Jersey, October 9, 1947.*

A POSTWAR rise in the cost of living has once again brought the transit industry face to face with a dilemma. The local transportation companies are confronted with rising labor and material costs and a stubborn fare ceiling. This closely parallels the situation prevailing at the close of the first World War. It is one facet of the spiraling cost of living—the aftermath of war's destruction and the shortages that are born of the prosecution of the war.

In the '20's it was the nickel fare—now the dime fare that is slated for an early demise. The present wave of difficulties is not restricted to any particular state or region. It is nation wide in scope. Headlines of out-of-town, as well as home-town, newspapers testify to widespread transit troubles and are no reflection upon the operations of particular companies. The fact that certain corporations may be more seriously pressed than others can be explained by peculiar local complications. Recent and past history of certain companies and their methods of meeting recent economic trends may cause a variation in the degree of difficulty now experienced. Some transit companies have been permitted fare increases which went into immediate effect to meet changing conditions and to match the price trend. Others either have refrained from requesting, or have not been granted, fare increases since the early '30's. In some places the subject is a touchy one.

IN the old days a popular notion held that, under honest and efficient management, a 5-cent fare was suffi-

*Editorial staff, PUBLIC UTILITIES FORTNIGHTLY.

cient for the maintenance of a sound transit company. Such thinking denied the importance of economic factors. Any such oversimplified diagnosis was bound to lead to a treatment of the situation that fell short of correcting the disorder. On the other hand, managements that raised fares, without careful regard for other circumstances, received a backlash from the economic law of diminishing returns. Experience taught that a rate increase need not be followed by an increase in revenue.

These and other problems were the topic of discussion at the 66th annual convention of the American Transit Association (ATA) held in Atlantic City, New Jersey, from October 8 to October 10, 1947.

Charles E. Ebert, president of the Philadelphia Transportation Company, and president of the ATA, opened the general sessions of the convention with a message which cast some light upon the nature of "Transit's Dilemma." In the forefront of the problem is the necessity, on the part of the industry, either to decrease costs or increase income. Ebert feels that little can be done about fixed charges short of financial reorganization under the courts.

As present high prices are not likely to revert to prewar levels in the near future, he considers high wages and high taxes (personal and corporate) inescapable as a result.

LOWERED labor costs and taxes are not available as a solution to transit's financial problems. Such a break in wage or price levels can only come as a part of a recession, which, he is certain, would adversely affect riding and drive revenues down faster than operating costs.

Cutting service when the going is tough is another old practice, overused in Ebert's opinion — a short-term temptation but a long-run caution. Rather than drive customers away, modernization programs should be continued to make service more desirable.

Unable to reduce costs, consideration must be given to the possibility of increasing revenue. Selling more service, which in the transit industry means increasing off-peak business, should be encouraged. Little can be done for peak riding that will not require increased operating costs with the possible exception of initiating express (in addition to local) service to benefit suburban riders. Selling more service, Ebert states, is the most pleasant way of increasing revenue. While extra-fare express service may help, it is no cure-all for the industry's financial ills. And while off-peak riding should be encouraged by an intensive use of chartered service and resort busses, there is no great hope of raising the volume of off-peak riding to a level that will solve transport's present economic difficulties.

EBERT sums up by saying that "higher fares appear to be the only real and lasting remedy for transit's present ills." Prices have been raised on most every commodity in the past few years, but the price of a streetcar or jitney ride has been raised only slightly during this era of runaway prices. "Obviously the transit industry must receive more for its product to meet these rising costs."

With labor and material costs up an

average of 65 per cent, "the transit industry has advanced its fare per revenue passenger on transit lines throughout the nation only 9 per cent above the prewar level," he says.

The 10-cent fare has been the industry's generally accepted price ceiling, but Ebert seriously questions the common belief that "a 10-cent fare is the maximum fare that the public will be willing to pay for good transit service. . . . on many properties, especially the larger ones, a fare in excess of 10 cents may be acceptable, particularly if coupled with good service."

"Today many companies already at or near the 10-cent fare level are sorely pressed for increased revenue. . . . higher fares, even though they break through that 10-cent ceiling, are in my opinion a necessity today in much of the industry," ATA's president says.

According to Ebert, the ATA is sponsoring a comprehensive study of the relationship between riding, fares, and revenues. This project is under the direction of Dr. George P. Wadsworth, assistant professor of mathematics and head of the statistical laboratory of MIT. Using records of 70 large and small operating companies covering some twenty years of experience, and of scattered geographical distribution, ATA hopes useful information concerning the effects of different rates on riding and income will be obtained.

PUBLIC ownership of a transit system in difficulty is no cure, according to Morris Edwards, vice president, Cincinnati Street Railway Company, who addressed the convention on "A Financial Pattern for the Transit Industry." The developments in several larger cities have led some people to believe that the ultimate choice is one between private and public ownership. In Edwards' opinion, municipal ownership is no solution; it is a mere shifting of a burden from commuters to taxpayers, without sweetening the pill. He says:

> . . . If a deficiency is to be made good by transit riders, the same remedy would be equally effective if applied by a private company, without the serious political complications which a public authority would encounter. If a deficiency is not to be made good by transit riders but service is to be provided nevertheless, then access must be had to municipal treasuries—already sorely pinched in most American cities with which I am familiar. . . . the question of private *versus* municipal ownership has no more than an incidental bearing on the present financial problems of the transit industry. . . . Whatever the form of ownership, the essential problem is to make local public transportation pay its own way.

The transit industry is not seeking excessive and unregulated profit—but a necessary balance between income and outgo by placing fares at levels that will meet all proper costs. The riding

¶ "RECENT *and past history of certain companies and their methods of meeting recent economic trends may cause a variation in the degree of difficulty now experienced. Some transit companies have been permitted fare increases which went into immediate effect to meet changing conditions and to match the price trend. Others either have refrained from requesting, or have not been granted fare increases since the early '30's.*"

public must be appraised of the values and benefits to be derived from financially sound transit service and the results in terms of modern equipment and better service.

EDWARDS observes that, were the industry kept to the 10-cent fare as it was to the 5-cent fare a generation ago, it would be obliged to shelve plans for future improvements and very likely might trim existing services. This could only result in loss of patronage. Companies would be further weakened and employee morale would decay. In Edwards' own words, "the industry would be pushed back to a position even worse and weaker than its anemic condition of the depression years, for it would be well launched on the downward spiral toward bankruptcy."

If the industry presented its case to the public and to regulatory authorities and sought a fare raise commensurate with costs, indicating a desire to cope with the situation and render attractive service, then, in Edwards' opinion, it is likely (but not guaranteed) that the industry would be rewarded with success. The final word rests with the transit customer as recorded by either the proffering or withholding of coins from the transportation industry's fare boxes.

IN the opinion of J. E. Heberle, vice president and comptroller of Capital Transit Company, who addressed the ATA gathering on "The Need for an Adequate Fare," the transit industry will not survive as a private enterprise—unless it meets the present situation with imagination, foresight, and courage. Heberle has recently looked into the operations of twenty geographically dispersed companies of various sizes. In the first half of 1946, he said, these companies had a total income of $219,000,000. Expenses in the same 6-month period aggregated $208,000,000, leaving a net income of $11,000,000 or 5 per cent. In the first half of 1947, these same companies had total revenues of $222,000,000—an increase of $3,000,000 due to increases in 1947 fares over 1946. Operating expenses increased from the $208,000,000 in the 1946 period to $228,000,000 in the 1947 period or a deficit of $6,000,000 for the first half of 1947 in the twenty companies studied. "A number of these companies are already charging a 10-cent fare. Further relief can come only from a break through into higher fare levels," Heberle states. The crux of the situation is an "adequate fare" for which he presents this formula:

> No given fare is adequate unless it provides sufficient revenue to meet all costs of service, including a proper recompense for the capital employed, and in addition leaves a balance over and above these needs. I repeat: If we are to continue as a healthy industry there must be a balance remaining over and above the amounts required for operating expenses, taxes, provision for depreciation, interest charges, and a reasonable return for the equity owners. Upon the existence and adequacy of this balance depends the quality of future service.
>
> If the fare structure provides less than these requirements, the quality of service is bound to suffer.

THE gateway to the adequate fare carries the inscription "Education" in Heberle's view.[1] He recalls the earlier struggle:

[1] Shortly after the Atlantic City meeting, Heberle's own Capital Transit Company essayed the rôle of pioneer in breaking through the "10-cent ceiling" when it announced its intention to seek a fare increase from the District of Columbia Public Utilities Commission from 10 to 15 cents cash fare and a token rate of 2 for 25 cents.

Importance of Economic Factors

"IN the old days a popular notion held that, under honest and efficient management, a 5-cent fare was sufficient for the maintenance of a sound transit company. Such thinking denied the importance of economic factors. Any such oversimplified diagnosis was bound to lead to a treatment of the situation that fell short of correcting the disorder."

Most of us remember the storm of protests that arose against departing from the 5-cent fare. We were the center of attraction on a platform of misconception and ignorance. The public knew little of the affairs of our industry and seemed to care less.

To achieve the desired goal, it is his view that a program of education must be beamed toward transit employees, the general public, and the regulatory agencies. Pointing up the need for such a program of information, Heberle cites the classic fallacy of the day contained in that ubiquitous theory that rising wages do not necessitate increased prices.

In accord with others in the transit industry, Heberle insists that no single formula for solving current problems exists. He says:

> . . . There can be no general prescription for fares. Certainly those companies which are now operating on a 10-cent fare and still find that rate inadequate must seek relief at higher levels.

TACKLING this problem from another avenue of approach, Dr. Clarence M. Updegraff, University of Iowa Law School, included in his general topic "Arbitration" some references to the present difficulties experienced by transportation companies. Speaking of recent wage trends and the resulting increase in labor cost to transit companies, he told his transit industry audience:

> . . . It cannot reasonably be supposed that your organizations can continue to operate in the face of future increases of similar nature without additions of income to be attained either through increase of fares or from public subsidies.

He directed inquiry toward the possible desirability of requiring public service commission representation at arbitration of disputes between utilities and unions. This might conceivably lessen the untoward effects of an arbitration board's decision to disregard the "inability (of a utility) to pay" increased wages. The suggestion backing such cases cites the board's lack of power to fix fares or any of the other matters now regulated by the

public service commissions. By investing the commissioners with some responsibility for a wage increase they would automatically become acquainted with the utility's need for adequate returns to meet that added cost. Dr. Updegraff recommended the encouragement of legislation to add utility-labor dispute arbitration to the tasks performed by the utility commissions. He calls attention to the inherent logic of expecting the organization that controls utility income to be, in part, responsible for any increases in utility expenses.

DR. UPDEGRAFF states on this:

> . . . any rate regulating body should authorize the charging of rates which will meet all current operating expenses and yield a return on capital which will conserve the integrity of former investments and provide sound businesslike inducement to investors of new money when betterments or extensions are required.
>
> . . . To me it seems clear, though you know better than others on this matter, that the orthodox rates of fares which have obtained in the past are in for widespread, substantial, thoroughgoing increases. This must be so if we are to continue to have a public transit industry. The alternatives are the dubious and difficult ones of public subsidy or public ownership, which are certainly less palatable to the American way of thinking.

It is possible that public opinion will not seriously resist an attempt to boost fares above the 10-cent level especially in view of the economic merits of the case. There is the fact that "fares have not increased in recent years in proportion to increases of passengers' other expenses." Dr. Updegraff believes that 10-, 12-, and 15-cent fares will not be publicly abhorred to the extent that the "law of diminishing returns" will be brought into serious play.

The speaker observed that public psychology has been conditioned to an acceptance of a two-for-a-quarter or 15-cent fare without clamor or a change in riding habits. To a certain extent this estimate of public sentiment is based upon knowledge of other factors: the automobile shortage, metropolitan traffic congestion, and the depressed value of the dime.

FROM a brief historical sketch of the transit industry the following analysis is excerpted for purposes of comparison with the present familiar situation: ". . . The prosperity which most of the companies experienced in the period prior to World War I was followed by years of heavy losses . . . caused by the rising costs of operation during the war, and postwar inflation. Their position was made more precarious by the difficulties experienced in securing rate increases commensurate with rising costs . . . such companies have been unable to raise the capital necessary to modernize their service. If it is possible to secure a recapitalization of these companies and a modernization of their equipment, the future position of the local transit services seems assured."[8]

This striking similarity to the current picture leads one to the conclusion that "Transit History Repeats Itself."

[8] Irston R. Barnes, *Economics of Public Utility Regulation* (Crofts) N. Y. 1942.

A Forgotten Pioneer

Accidental discovery of a collection of articles belonging to Anson Clark, an early inventor and lecturer on electricity, the cache including an electric dynamo built by him in 1829.

By CLAY PERRY*

About four years ago James Clyde Moore, a leading citizen of the little old quarrying town of West Stockbridge, Massachusetts, took the dusty coverings off some stored articles in the barn on his village place, on the Stockbridge road. The cache had been in the barn ever since he could remember. It had been placed there by his father, long dead, and left undisturbed for more than a half-century, because its contents were apparently the store property of a man who had packed them up when he left town for what is still an unknown destination, intending to return for them or send for them.

Among them was an electric dynamo and a tiny model of an electric motor —and in a great chest containing a whole library, largely of scientific books, was a diary. It was the personal diary of Anson Clark and in it Mr. Moore made the startling discovery that the dynamo, which was still operative, and which was built upon principles which are still sound, had been constructed by Anson Clark in 1829! Not only that, but Anson Clark had used it to demonstrate the uses of electricity in lectures under the auspices of the Hudson Lyceum of Natural History, on platforms all over the East, including New York city, Boston, Albany, and way stations.

Anson Clark's personal diary, which ran only from May, 1825, to October, 1832, had the following brief entries, among many others:

"1829—March 15—Began Moddle for screw machine which was completed on the 16th of March.

"March 21—Began Small Electrical Machine.

"March 26—Finished Electric Machine."

Mr. Moore, who is a mineralogist, expert cabinetmaker, lecturer, and

*For personal note, see "Pages with the Editors."

deep student of the arts and sciences, began to probe deep into the strange deposit of things which he had known, as a boy, only as something left by an eccentric who had come to West Stockbridge to be a stonecutter in the marble quarries in 1809, died there over a century ago, February, 1847, at the age of sixty-four, apparently leaving a wife and four children.

But it was not only Clark's entries in his diary and in various personal account books which dated this "electrical machine" as preceding even the disk dynamo of Faraday, and the first patented electric motor in America, which was manufactured in 1835 by Thomas Davenport at Brandon, Vermont. There are printed handbills advertising Clark's lectures, newspaper accounts, and certificates of award, one of them given to Clark by the Mechanics' Institute of the City of New York, for his invention of a model of a screw machine, in 1839. He had applied for a patent on a "stove and drilling machine" in that same year, March 1st.

But the working dynamo, weighing some fifty pounds, and operated by a horizontal wooden wheel with a handle on top, appears to be the most advanced of Clark's several inventions and developments. It was complete, with brushes and a commutator — and the tiny model of an electric motor, with dry battery and coil, proved a striking study, for Clark had used wire cleverly insulated with what seems to be linen thread, wound as perfectly as any modern insulated electric wire.

The dynamo, made of wood, iron, and copper, also had yards of insulated wire for its coils, brushes of unknown substance, the two heavy magnets made of five bent plates of forged iron welded together neatly, and all that was missing from it was its belt and a second handle closer to the center of the hand-operated power wheel than the one remaining, evidently broken off, and probably put there to give higher speed to his machine.

Mr. Moore plunged into the study of the Anson Clark effects, and discovered that not only had Clark anticipated the electric investigations of Telsa, Brush, Faraday, and, by almost half a century, those of Edison, but that he was a genius of many parts in the field of science and of art. But he was and is today a vanished and forgotten genius who is not mentioned in any history, local or other, and is missing from the pages of any work on electricity yet published, or of photography. Clark had perfected in the 1820's or 1830's the art of making daguerrotypes in five to ten seconds, where it had taken as many minutes—almost instantaneous photography, making his own cameras, grinding his own lenses, and perfecting his own chemical solutions for development of his pictures. And he left pictures he had taken a century ago that are as fresh looking as if made yesterday.

Besides this accomplishment Clark made and sold handsome, mahogany veneered melodeons, aeolians, and seraphines; carpenter's levels of mahogany and brass, constructed a model of a street sweeping machine with a revolving brush whirled by the traction of its wheels—in use in principle today; a model of a belt tightener; and he repaired watches, clocks, guns, household utensils; collected rare prints; manufactured kegs, barrels, and firkins in his cooperage factory,

ANSON CLARK

where he also finished his own veneer; kept a general store; built himself a combined house and studio; had a small museum of articles of natural curiosity, such as minerals; taught photography to others, and learned "imitation painting," so as to give his daguerreotypes natural colors.

One of the most stubborn mysteries about Clark, which was solved only after considerable research on the part of the writer and others, was definite evidence of the place and time of his death. Until late in this year, over a century after his death, evidence seemed to indicate that Clark and his

family had simply disappeared from West Stockbridge in 1845. There was even some suggestion that Clark, although seemingly an agnostic, had joined the hegira of a group of West Stockbridge persons who traveled West with the Mormons. One of these, Daniel Spencer and an intimate friend of both Anson Clark and Joseph Smith, made the trip to Salt Lake City and became a famous elder in the Mormon church.

However, the mystery was cleared by a copy of a weekly newspaper, *The Berkshire Whig,* published for some years in Pittsfield, Massachusetts. The March 4, 1847, edition of this publication gives the following simple item:

DIED: At West Stockbridge, Mr. Anson Clark, sixty-four.

Even this does not establish the exact date of Clark's death. But when it appeared that legal papers had been filed on March 2, 1847, the two facts seemed to add up to the further probability that Clark died in West Stockbridge late in February, 1847.

An interesting sidelight on the affairs and modest estate of Anson Clark was shown by legal documents in the registry of deeds and probate court at Great Barrington and Pittsfield. These establish the fact that Clark died intestate since petition was filed by his heirs to clear title to real estate and personal property.

His elder son, Edwin, was appointed administrator of the estate at the request of the widow and other heirs. He was licensed to sell at public or private auction the following personal property as listed in Edwin's inventory:

Electrical machine	$4.00
Small electrical machine	.50

This was the appraised value set by a committee of three citizens, and a later paper filed by Edwin Clark tells us that these machines were sold for exactly their appraised value. These entries help to authenticate the dynamo and the model of a motor as being Anson Clark's own, if such authentication were necessary. They also indicate that the people of that time and locality placed very little value on Clark's inventions in the electrical field, which is further borne out by the complete ignoring of his career in history.

THE latest find on the obscure career of Clark was a series of letters to the editor of *The Weekly Visitor,* 1841-42, which were in old files in the Stockbridge (Massachusetts) Public Library, praising the photography developments of Anson and his son, Edwin H. One of the letters stated that the writer had seen daguerreotypes in London and New York and that the Clarks' portraits exceeded in quality even those of Daguerre himself. It seems that the Clarks were at that time devoting most of their energies to photography in this period, and probably Anson had found that experiments in electricity were not going to prove very profitable.

It is a challenging mystery for experts in the electrical field. Why is the historical literature of the art barren of all reference to the Clark dynamo and motor? Perhaps the reason is that Clark was too far ahead and in so remote and insignificant a place—still a stagecoach stop on the route from Hartford, Connecticut, to Albany, New York. In 1838, it was a terminus of a branch railroad connecting with

Photo by H. S. Babbitt, Jr.

The brass-studded wooden chest in which the vanished genius of West Stockbridge kept models of his striking early inventions contained: Front, left, a motor, operated by a dry battery and a coil; center, part of the works of a clock; right, rotary brush street sweeper; rear, right, belt-tightener; left, rear, drilling machine, for which Clark applied for a patent in 1839 after winning an award from the Mechanics' Institute of New York city. At the back, a spirit level labeled for sale, one of dozens that Clark made of mahogany with brass trim. The chest is neatly lined with a large poster advertising Clark's lectures on electricity.

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the lines that are now the Boston & Albany and the Harlem division of the New York Central lines. Anson Clark's home and studio were, according to his handbills advertising his wares, "next to the railroad station." It is gone, entirely, now; a gas station and café occupy the lot.

Proof of Clark's arrival in West Stockbridge in the year 1809 is contained in a schoolboy's copybook which he brought with him and left with his other belongings. A handmade book, sewn into covers, on which he had inscribed in flowing script, "Anson Clark, Lisbon, New London county, Connecticut," not once but many times, and then an entry of that same year made in West Stockbridge.

Lisbon knows nothing of Anson Clark at all. No town records record his birth there. It is today a part of the town of Norwich, having a town office of its own but no postoffice. Many Clarks lived there, according to Town Clerk Edwin M. Palmer who was asked to try to trace this Clark, but "it has been some fifty years since a Clark lived here, now," he reports.

To heighten the mystery, Clark himself seemed anxious to conceal his private records from prying eyes, for he used a private code, consisting of numerals, letters, and symbols, some of them resembling Greek letters, and the code has not yet been broken.

Not content with the various occupations mentioned, Clark also dabbled in perpetual motion experiments but left no model or an attempted machine. He did leave, in a small wooden chest, the small models mentioned, lined with one of his large handbills advertising "Philosophical Experiments with Electricity . . . produced by friction . . . Leyden Phial . . . Positive and Negative Electricity . . . Electrical Attraction and Repulsion by which many objects will be put in motion, such as moving a vertical wheel, ringing bells, etc. . . . and . . . The Electrical Orrery. Showing the motions of the Earth and Moon around the Sun; imitation of celestial fire; the electric shock . . .," and other experiments.

Clark's diary mentions the names of men contemporary with him, as a resident of West Stockbridge, and many of these are also found in the several histories of town and county, but his name, which it would seem should have led all the rest, is nowhere to be found among the others.

In later years, in the neighboring town of Stockbridge, there lived Cyrus Field who laid the Atlantic cable. In Great Barrington, also a bordering town, lived William Stanley, who there demonstrated the first commercial uses of electricity for lighting streets and stores and went on to become one of the founders of the Stanley General Insulating Company at Pittsfield, the county seat, now the large transformer plant of the General Electric Company. Their fame is blazoned broadly across the pages of history — but what of Anson Clark, who preceded them by many years?

Mr. Moore discovered that Clark had a hobby of roaming about in cemeteries and studying the inscriptions on the headstones. This prompted Mr. Moore to seek the local cemeteries for possible discovery of a headstone over the grave or graves of Clark and some of his family. One of his daughters, Sally Loize, born December 9, 1820, had died at the age of seventeen months, according to town records, but no headstones could be found in the town or near-by ones.

The first published account of Mr. Moore's finds appeared in a local newspaper at Pittsfield, Massachusetts, in September, 1946.

Security for Light and Power Company Employees

Insurance or pension plan coverage for workers much more widespread in this utility group than in any segment of industry studied by the United States Bureau of Labor Statistics in 1945 and 1946.

By MARION HAMMETT*

THE desire for personal security is as old as mankind. And no doubt the first efforts to attain it were concerned with personal safety—when our remote ancestors took to caves for protection against animals and the elements.

Every form of human security has been enhanced since those distant days. Here in the United States particularly, we have set up many safeguards against the hazards and uncertainties of life. One of the most important efforts has centered on group experiences and the added protection that comes with the pooling of various risks.

As everyone knows, the actuarial experience provides the factual background for nearly all insurance and pension programs.

More and more we are extending the scope and variety of such plans. And there is little reason to suppose that this age-old tendency will reverse itself. So it is not surprising to find that employers in this country have made very substantial progress along these lines—quite apart from, or rather over and beyond, the requirements prescribed by the Social Security Act.

According to wage surveys made by the U. S. Bureau of Labor Statistics in 1945 and 1946, nearly half of the establishments in manufacturing maintained such insurance or pension plans for their workers. The BLS sample was a broad one, covering 15,636 plants in four major groups—apparel, chemicals, metal working, and textiles. Of this number 47 per cent had some type of insurance or pension program, or a combination of both.

*Former economist, United States Bureau of Labor Statistics.

THAT figure is impressive, until it is put alongside the 86 per cent shown for electric light and power plants! Coverage among this utility group was much more widespread than in any other segment of industry which the bureau studied. In addition to the manufacturing plants surveyed, data were gathered for some 5,300 nonmanufacturing establishments. The latter group included automobile repair shops, clothing stores, department stores, limited price variety stores, power laundries, and warehouses.

Before analyzing the utility group more closely by region and by type of plan, let us see how prevalent such plans were among the various branches of industry. In general, health and life insurance plans were much more common than pension programs, owing in part to the benefits available under the Social Security Act.

There were many wide variations in the extent to which the different groups had adopted programs, as shown in Table I.

In the textile, chemical, and metal working groups about the same proportion of employers extended insurance or pension benefits to office and plant workers alike. In the apparel industries there was much less coverage for office employees.

REGIONAL differences were quite marked in both the manufacturing and nonmanufacturing groups. As the BLS study points out, the concentration of various industries in certain regions has probably led to more uniform and widespread practices in these industries. Insurance and pension plans are more prevalent in some relatively low-wage than high-wage manufacturing industries—textiles being an example.

Undoubtedly collective bargaining has also influenced the adoption of these plans.

Both the growth of unionization and the wage controls in effect during World War II encouraged the spread of insurance and pension plans. Today such programs are often included in

TABLE I

PERCENTAGE DISTRIBUTION OF ESTABLISHMENTS HAVING INSURANCE OR PENSION PLANS FOR PLANT WORKERS IN SELECTED INDUSTRIES—1945-1946.

Industry	*No. of Plants Studied*	*Percentage With Plans*
Nonmanufacturing		
Electric Light & Power	130	86%
Auto Repair Shops	1,399	37
Clothing Stores	759	26
Department Stores	355	57
Limited Price Variety Stores	1,441	36
Power Laundries	1,621	14
Warehousing	724	24
Manufacturing	15,696*	
Apparel	2,261	55
Chemicals	999	56
Metal Working	6,647	44
Textiles	1,448	60

*This total includes other manufacturing not listed separately.

TABLE II

PER CENT OF ELECTRIC LIGHT AND POWER SYSTEMS HAVING INSURANCE OR PENSION PLANS FOR PLANT WORKERS BY REGIONS—1945-1946

New England	95%
Middle Atlantic	94
Southeast	100
Great Lakes	80
Middle West	86
Southwest	83
Pacific	57

collective bargaining negotiations, and a substantial number of the contract agreements in textiles, apparel, machinery, and paper contain specific provisions relating to these benefits.

In nonmanufacturing fields such contracts are found in a number of industries, including street and electric railways and retail trade.

It is significant that the Pacific region, which is characterized by relatively high straight-time average hourly earnings, ranks among the lowest in extent of insurance and pension plans, even though its industries are highly unionized.

This is generally true in both manufacturing and nonmanufacturing groups. The Bureau of Labor Statistics explains this by stating that "maybe the high wage rates themselves attract and hold the necessary labor force without other forms of compensation. Furthermore, a number of the industries were developed and expanded at a comparatively more recent date than those in the eastern regions."

Now let us get a close-up of the regional situation in the electric light and power industry: Health and insurance plans were most prevalent among this group than in any other industry surveyed in all regions. The score, by regions, is given in Table II.

Following the general pattern of all industry groups, life insurance plans were much more prevalent than other types of benefits offered by electric light and power companies. Seventy-eight per cent had health insurance programs; 35 per cent offered retirement pensions; 12 per cent had some other kind of plan. As these figures indicate, a number of plants had more than one type of benefit.

There is, of course, considerable variation among specific plans, whether they are set up through collective bargaining or on the employers' own initiative. A recent study of health-benefit plans established through collective bargaining found that there were three types of benefit plans:

1. Those administered solely by the unions.

2. Plans jointly administered.
3. Programs administered by a private insurance company wherein the employer pays the premium directly or into a special premium fund.

Most of the plans studied were financed entirely by the employer. This was true of all union-administered plans, of almost all jointly administered programs, and of more than half the plans administered by insurance companies. Incidentally, all of these programs were in effect prior to passage of the Taft-Hartley Bill which places certain restrictions on the administration of welfare funds established after January 1, 1946.

Most of the agreements covered by the BLS study of health-benefit plans stipulate a specific percentage of the employer's payroll (usually 2 or 3 per cent) to be paid into the fund. If the contribution is not specified, the employer either defrays all the expenses or supplements employee contributions as required.

The health benefit plans included weekly cash benefits during illness and disability caused by nonoccupational accidents, hospital and surgical expenses, and sometimes payment of doctor bills. As a general rule these plans did not include dental care or preventive medicine.

Both past practice and current trends indicate that insurance and pension will provide protection for an increasing number of employees. The importance of such funds is generally recognized. However, the trend in financing such funds is much less certain. There are no hard and fast rules to guide management or employees in fixing the amount which each should contribute to a welfare fund.

One rule can be laid down. A sound, successful program must be based upon actuarial experience.

Properly formulated and wisely administered, such programs can bring a new measure of security and goodwill to the industrial scene. America's public utilities already offer a valuable proving ground.

Who's Responsible for Whom?

"THE *prattle about* SOCIAL *responsibility has become a little tiresome. As a matter of fact, private enterprise as a whole has no more responsibility than the individuals who comprise it. And that means labor as a whole, farmers as a whole, and business and industry as a whole.*

"Government on its part has a responsibility for seeing to it that ALL *private enterprise enjoys a climate suitable to its steady growth. We have had evidence in the last two years of a shocking irresponsibility on the part of the big unions. . . . Social responsibility on the part of business doesn't mean abandonment of sound business principles. It means competition for the consumer's dollar, not organized price cuts tailored to some vague standard of social advancement."*

—WILBUR J. BRONS,
Columnist.

OUT OF THE MAIL BAG

Checking Gunther's Checking

YOUR amusing review of John Gunther's recent book *Inside U.S.A.* (in the July 31st issue of the FORTNIGHTLY) was especially interesting to me because of a rather specialized analysis which I was tempted to make after reading Mr. Gunther's reaction to his numerous and widely scattered traveling interviews.

As I read the book I somehow received the same impression of that of your interviewer (Francis X. Welch) that Gunther based his conclusions and rather sweeping generalizations on somewhat spotty and superficial coverage. It made me wonder whether Gunther had tried to organize his program for interviews on any balanced basis — one which would reflect, or attempt to reflect, such relative factors as population, occupation, income brackets, etc., not only as between the states covered, but also as between different persons interviewed within the same state or area. The idea intrigued me to the point of doing a little checking and I thought perhaps your readers might be interested in the result.

The accompanying table analyzes the total interviews referred to by Mr. Gunther in his book. Of these, interviews with businessmen comprised only about 10 per cent of the total. And of the business interviews only one-sixth were made in the 30 states having 72 per cent of the national income. On the other hand there were 36 business interviews in 14 states having only 7 per cent of national income and 22 in 4 states with 20 per cent of the income.

IN other words the business interviews seem to be on a very disproportionate if not actually hit-or-miss basis. A great deal of attention was given to the West coast and South, and very little to New York city, Chicago, and other big cities (with the exception of Boston). To cite only a few cases of neglect of "Big Business," there was no attempt to talk with General Motors, Chrysler, Westinghouse, General Electric, Union Carbide, or American Can. On the other hand, there were a number of interviews with picturesque newcomers such as Kaiser and Higgins.

In the utility field, despite Gunther's apparent preoccupation with this field (as noted by

Breakdown of Gunther's Interviews According to Profession

Newspaper and radio, editors, publishers, commentators, columnists, etc.	190
Government officials, primarily Senators, governors, Congressmen, mayors, judges, etc.	167
Government bureaus, commissions, TVA, Bonneville, etc.	99
Businessmen	91
Miscellaneous	57
Educators	46
Writers, artists, etc.	50
Labor organizations, CIO, etc.	40
Lawyers	22
Bankers	18
Motion picture industry	18
Hotels and restaurants	17
Farmers and farm organizations	15
Churchmen	13
Army and Navy	12
Negro groups	8
Doctors	6
Scientists and engineers	2
Total	871

your reviewer), larger companies such as American Telephone, Consolidated Edison, North American, Pacific Gas, Commonwealth & Southern, and Commonwealth Edison were neglected, and no big gas companies were visited. On the other hand five smaller Northwest utilities (Portland General Electric and others) were visited, apparently because of their proximity to public power operations. The same preference for the West was evident with the railroads — Pennsylvania, New York Central, and B&O were discarded in favor of the Sante Fe, Union Pacific, and Southern Pacific.

—WALTER J. HERRMAN,
Rate analyst, Commonwealth & Southern Corporation.

We'd Better Watch Out

PERHAPS "sleeping dogs" should be allowed "to die" but in reviewing a past issue containing an article about "The New River Case," the closing paragraph by the author of it provoked in the writer a paraphrasing as follows:

Food for Thought

Through the development of our natural resources, economic and otherwise, with public money—through their operation at a loss and subsidization with more public money—through the continuance of inequitable group favoring legislation, its biased interpretation and punitive administration—through the encouragement of mediocrity, discouragement of personal initiative, together with mental and physical indolence—we are, through all these, promoting mass atrophication of every human function and accelerating the trend resulting in a complete totalitarian autocracy.

—C. O. DODGE,
Resident, Brooklyn, New York.

The Co-op Way to Success

I FOUND your recent coverage of the co-op tax exemption investigation ("Washington and the Utilities") now going on before two congressional committees and elsewhere quite interesting. Along the same line, I thought your readers might be interested to know of the results of a recent 18-month study by two Harvard business school researchers, Professor J. Keith Butters and Student John Linter, into the effect of Federal taxation on growing enterprises.

Their study took a hypothetical business starting with $100,000 and ploughing back all its earnings, amounting each year to half the net worth of the business.

If tax exempt, the business would be worth $5,750,000 in ten years. If subject to a 40 per cent income tax (the present Federal rate on corporations of this size is 38 per cent), the business would be worth only $1,375,000 in ten years, or less than a fourth as much. In forty years, with tax exemption, the corporation would be worth $700,500,000.

THERE are several co-ops which are headed in this direction, according to the Butters-Linter study: the Farmers Union Grain Terminal Association of St. Paul (started in 1938 on $30,000 capital and grew to $10,500,000 in ten years); the Consumers Coöperative Association of North Kansas City, Missouri (began in 1935 with $251,849, and grew to $7,300,000 by 1945); and other similar cases of expansion based on retaining untaxed earnings.

As a matter of fact, the present $12,000,000,000 annual volume of co-op business in the United States—if projected into the future—would be doing $25,000,000,000 through the early 1950's, if the total amount of tax exemption were retained in the business. Under the present tax setup, Henry Ford would never have been able to run his original $1,000 investment into a $1,000,000,000 business in forty years if his business were commercially incorporated. The only way he could do that today would be to operate as a co-op.

—M. R. KYNASTON,
Resident, Washington, D. C.

Regulation under Roman Law

IN one of your recent issues, a writer made the statement that the legal recognition for the special need of common carrier regulation could be traced back over three centuries to England when Lord Chief Justice Hale made his famous commentary about the obligation of business "charged with a public interest." True, as far as it goes. But the principle of law which imposes special responsibility upon the carrier, for the safety of goods carried, is one of great antiquity. Its first authoritative appearance, perhaps, was in the praetorian edict of the civil law contained in the ninth title of the fourth book of the Roman pandects, incorporated in the Justinian Code (AD 533). This simple rule imposes on all common carriers the status of insurer for the safety of goods carried for others, regardless of questions of negligence, intent, etc.

—MARTIN W. CLEMENTS,
University of Maryland.

Washington and the Utilities

Partisan Appointments

IT is still only 1947, but already the fat is beginning to get hot on the political griddle on which a good many prominent campaign figures are going to be roasting during the presidential election year of 1948. Both parties are squaring away for preliminary advantages of time, place, and position. No government post with any political significance is too humble to be overlooked by the master minds of the two major parties.

A good case in point is the narrowly averted knock-down-and-drag-out fight over filling a vacancy in the Federal Communications Commission (FCC)—a vacancy left by the recent resignation of former Chairman Charles R. Denny who has shifted his endeavors to the greener pastures of private enterprise. Perhaps it would be more correct to say that the battle has been postponed, not averted.

What President Truman did was simply to put a year-end freeze on all key regulatory appointments. He was afraid that, in the heat and fury of political jockeying, Congress might have its attention diverted, even during the short special session, from the necessary chores of approving the Marshall plan to defeat Communism abroad, and doing something about defeating the inflationary spiral at home.

THE FCC tempest began to brew soon after the Denny resignation became known. It seems that it also became known that the White House was all set to name Wayne Coy to Denny's post. Wayne Coy is a veteran New Dealer who came to Washington as an aide to Indiana's favorite son, Paul R. McNutt. He (Coy) served almost to the end of the Roosevelt régime as a White House "leg man"—to use his own expression. More recently Coy has been radio director of a broadcasting station in Washington, WINX, owned by *The Washington Post*—an odd journalistic hybrid which is controlled by a Republican Hooverite, Eugene Meyers, but which reads, occasionally at least, like a mild edition of a Marshall Field publication.

In any event, Coy's arch New Deal background was enough to send GOP National Chairman Carroll Reece into a real snit. The President had not even confirmed the rumor that Coy would be appointed to head the FCC. But, probably on the theory that jumping the gun might scare off the explosion, Reece issued a blistering 300-word statement denouncing Coy's "prospective" appointment as being a violation of an informal agreement between the President and the Republican leadership in Congress to avoid "partisan" appointments until after the next general election.

It has never been too clear just to what extent there ever was such an agreement between the GOP and the White House. Shortly after the 80th Congress was organized, it was commonly reported that President Truman, in the interest of harmony and facing the necessity of living with a Republican-controlled Congress, informally agreed not to make major appointments to Republican vacancies without consultation with the Republican leadership. But Denny was a Democrat, or ostensibly so.

BACK of all this fussing, of course, are the purely practical preliminaries to a hotly contested presidential election.

Radio broadcasting has played an increasingly important part in every presidential campaign since the Harding-Cox campaign in 1920. This year will probably be a peak year for radio influence, with a side dish of television thrown in. Both Republicans and Democrats know that control of the FCC would amount to a modest strategic advantage in guaranteeing that the controlling political interests are not being shortchanged on the air waves.

At least three of the present members of the FCC are career men with only nominal political affiliations. Two of these are former Naval officers who have definitely professed their independence of any political party. It was probably for this reason that the GOP leadership was glad to see the recent elevation of former Representative Jones, of Ohio, an active Republican, to succeed Commissioner Wakefield on the FCC—although there is no question of Jones' high qualifications in other respects.

The Democrats are reported to be still holding the Coy appointment ready for the regular session which begins next January. If, as Carroll Reece's story hinted, the Republicans are prepared to battle against confirmation in the Senate, there may result a lively scrap early in the next session. Meanwhile, the veteran Commissioner Paul A. Walker, sole surviving charter member of the original FCC, serves as acting chairman—an appointment that needs no Senate confirmation.

The Federal Power Commission (FPC) and perhaps some other regulatory appointments (notably in the National Labor Relations Board) suffer the usual fate of the innocent bystander in this political fuss over the FCC.

A nomination of Burton N. Behling to replace former Commissioner Sachse on the FPC has been before the Senate since last spring. It will stay there until the end of the year—caught in the general year-end freeze precipitated by the Coy affair.

THE FPC, which has been limping along for months with only four members, is faced with the possibility of an internal split on getting out at least some sections of its final report on the natural gas investigation. Commissioner Olds is reported to be at loggerheads with some of his colleagues concerning critical policy recommendations, and the veteran Commissioner Draper also has shown an occasional but persistent independent spirit. Chances are good that Chairman Nelson Lee Smith would hesitate to bring out a final report if he could not get at least a majority of his commission to sign it, without dissent. He may have to wait for a 1948 appointment to do so.

How Short Is Power?

THE old childhood Christmas story about the anxious state of affairs prevailing on the "Night before Christmas" takes on a peculiar significance for the electric light and power industry in the United States—as the nation prepares to enter the season of short days, long nights, Christmas shopping, and the traditional bright lights all over the place.

Literally, until the night before Christmas, the pattern of the nation's peak load demand is likely to loom larger against the background of already strained reserve capacity. Spotty shortages, due to the peculiar local conditions such as in drought-stricken Maine, already have produced some power rationing and voluntary restriction campaigns. But the industry as a whole is hopeful and generally confident that it can get over the big hump of December 24th without a major breakdown or black-out in any important city or metropolitan area. If Christmas dawns with this accomplished, and with the slight easing of the shopping load, it will be about the nicest Christmas present an overworked industry could hope for.

It would also confound some Cassandras and Jeremiahs who have, in recent months, been painting black pictures of a 1947 Christmas spent in darkness with all the discomfort, misery, and social chaos that a failure of power supply

would produce in any modern American city. Henry Wallace's *New Republic* (May 12, 1947) went so far as to say that the chances were "fifty-fifty" that such a catastrophe would occur. That sounds pretty bad. Even a segment of the trade press, sometimes given to lecturing and a consistent attitude of omniscience has been recently prodding the industry for failure to "recognize" the situation—although it is not clear just how mere recognition of a situation that could otherwise not be helped could of itself be of much practical assistance. Government agencies have been quick to cash in on the ready-made argument for more funds (for more facilities that would not be in operation for some years hence), and even the Rural Electrification Administration has taken a righteously indignant position against the "shortsightedness" of others.

But do the facts warrant any such posing or pessimism? Regulatory officers in Washington, who have made an honest effort to appraise the situation realistically, agree that there is no such thing as a national power shortage. What is more, they say that there is not going to be any national power shortage. They say local power squeezes may become critical but not generally alarming. They say it is "nobody's fault"; but they concede that some local breakdowns of war-worn equipment are not only possible but even likely.

Years of controlled production in the electrical manufacturing industry, years of delayed deliveries, skyrocketing demand, and overcrowded equipment may take their toll here and there. But if there is anyone even gifted with the power of hindsight who could have explained, back during the war years, how this situation could have been avoided, he would not merely be a superintellectual, he would be a candidate for canonization on grounds of passing miracles.

Looking the situation squarely in the face, top regulatory officials in Washington say electric utility capacity will not get comfortably ahead of demand for some time. But, in the words of FPC's chief of bureau of power, Robert De Luccia, the situation is "critical but not alarming." De Luccia disclosed that all signs point to an equally critical power picture in 1948, with some hopes for relief in 1949 and later. By that time, however, electric industry men expect to have the heat pump ready for commercial use. This will require new pressure for more generating equipment early in the next decade. Summing up, the "tight" power spots are in northern Maine, and some parts of Florida, Iowa, and upper New York state.

Whatever happens between now and the time the first spring robin heralds the advent of longer daylight hours in 1948, somebody may have to eat some crow, along about the same time. It may be some of the more optimistic forecasters of the electric power industry. And it may be, on the other hand, the editors of the *New Republic*. But by that time, with the Russian situation and one thing or another, maybe they will have acquired a real taste for the stuff.

No Hiding Place Down There!

If the regular government departments think that the over-all Federal budget is going to provide a hiding place for appropriation demands, notwithstanding Federal spending for the Marshall plan, they may be in for an unpleasant surprise. Soon after the plethora of special reports to President Truman revealed just how much the Marshall plan was going to cost us, Washington observers began to trudge around to the various departments to find out if there was going to be an over-all reduction in ordinary department spending to offset expenditures for foreign aid under the Marshall plan.

The answer they received almost every place was an unqualified "nix." On the contrary, a good many of the spending and lending agencies felt downright put upon, by the modest slices which the Appropriations committees made in their budget at the last session of Congress. They seem to be looking forward

to the next fiscal year as an opportunity to catch up somewhat.

In fact, most bureaus expect to seek record appropriations from the new Congress, on grounds that: (1) Their programs will aid Europe by stepping up American productive strength; and (2) Congress will not dare cut requests too deeply in an election year. Interior and Agriculture departments are both hopeful of sizable budget increases.

REA expects to top any previous year's lending appropriations. This would mean a grant from Congress of $300,000,000 or more. REA in order to get this might be willing to submit to some restrictions on building new generating plants and doing managerial homework for its co-op borrowers. After all, the important thing is to get the money, without restrictions if possible, but with them if necessary.

ALL of this may work very fine as far as the administration-controlled Budget Bureau is concerned. But the Republican leadership in Congress, with its eye firmly cocked on a multibillion dollar tax reduction melon to present to the voters during the election year, is not going to swallow any over-all budget requests, without plenty of slicing, picking, and examination.

REA, because of its own political popularity, may do better than the other bureaus. But some of the GOP boys are already gunning for the Reclamation Bureau because of alleged efforts to put the GOP on the spot in politically critical northwestern states by spending appropriations faster than Congress intended. Suffice it to say that, before the budget gets beyond the Appropriations committees, the individual budget requests will, each and everyone, be called on the carpet. There will be no hiding place down there.

The Reclamation Bureau has finally filed with the Senate Appropriations Committee a quarterly report of its expenditures so far this fiscal year. The committee has sent the report to the Budget Bureau for a check of several apparent "overobligations" of construction funds. The report indicates that Reclamation will spend all its money on certain projects long before the end of the fiscal year, necessitating a request for some $36,000,000 in supplemental appropriations.

Small Farm Limit under Fire

THE Interior Department found itself under fire from a different quarter as the special session of Congress opened. What's more, the party behind the blast was a United States Senator who sits on the Democratic side of the aisle.

Senator Sheridan F. Downey of California on November 14th accused the Federal Bureau of Reclamation of promoting a campaign of falsification and cajolery in its efforts to retain the 160-acre limitation for users of irrigation water from the Central Valley project.

He said at a press conference that he planned to seek a Senate investigation into "propaganda" methods of the bureau and remarked later at a luncheon:

> I regret that I'll have to use such words as "dishonest," "vicious," and "corrupt," but I do so after four years of intensive investigation into the Central valley situation.

The 160-acre limitation became a part of the Reclamation Law in 1902, but Senator Downey asserted that it had not been enforced on other Federal projects and that "it cannot and will not work" in California's Central valley.

He said that every irrigation district in the state was against it, that "not one recognized state geologist, engineer, or lawyer" believed it could be made to work, and that the bureau was insisting on it from the motive of "lust or grab for power."

He charged that Michael W. Straus, Commissioner of Reclamation, had made "totally false statements" as to the cost of water and power to "cajole people" into favoring the 160-acre limitation.

During the last several sessions of Congress, attempts have been made to get rid of the 160-acre limitation.

Exchange Calls And Gossip

Tennessee Commission Turns Down Southern Bell Rate Increase

THE string of successful quests for higher telephone rates in the Bell system was snapped in the state of Tennessee last month. There the railroad and public utilities commission turned down the petition of the Southern Bell Telephone & Telegraph Company for a statewide increase of a little more than 16 per cent. The asked-for rate adjustment would have added about $4,000,000 to Southern Bell's revenues annually in Tennessee.

A 2-man majority of the commission agreed that Southern Bell had to assume the burden of proof in seeking the rate boost, to show that the amounts charged to operating costs were actually just and reasonable, and also "that the amounts paid to its interlocking affiliates and parent company have not been excessive." The commission took the view that Southern Bell did not sustain such proof. It criticized the company for asking the present customers in Tennessee to finance further expansion of telephone service.

Said the majority opinion:

> The company failed to support the burden of proving that the increased cost of operation in 1946 was solely due to increased wages and increases in prices of materials and supplies. It did not prove that the expenditures it had made in 1946 were necessary and/or that same were just and reasonable and that they were of a recurring nature and justified a rate increase.

SPECIFICALLY, the commission complained about the large amount spent for advertising in the state, and then got down to cases with a criticism of the 1½ per cent gross revenue tax as a license contract fee paid by Southern Bell to the American Telephone and Telegraph Company. It was pointed out that witnesses stated that no additional services would be performed in exchange for larger fees certain to result from larger gross revenues. The commission added: "No ceiling has been placed on this amount and it is obvious, therefore, that the more revenue received by the petitioner . . . the larger the license contract payment will be."

Southern Bell's petition was treated roughly on several other points, too. Regarding the justification of the company's insistence on a high rate of return on its equity capital and "other capital" (money held for Southern Bell's use by AT&T), the commission declared:

> The commission is unable for the purposes of this proceeding to conclude from the evidence that 9 per cent is mandatory as a rate to be applied to company equity capital, or that 6.79 per cent must be applied to other capital and that if this is not done that the petitioner's property is being confiscated.

There was also the complaint made that Southern Bell did not prove the justification of specific rate changes asked in the petition. Commissioners Andrew T. Taylor and John C. Hammer signed this majority opinion.

But though this judgment seems emphatic enough, it was, in point of criticism, overshadowed by the concurring opinion of another Tennessee commissioner, Leon Jourolmon, Jr. This commissioner may be remembered as the man who has consistently supported and led efforts to require all Tennessee utility companies to make strictest compliance with the principle that any approved revision of rates should be per-

mitted only upon a showing that the burden of proof has been fully sustained by the petitioners therefor.

Jourolmon agreed with his fellow commissioners that the Southern Bell rate increase petition should be denied, but, striking out from there on his own, he opined that Southern Bell's rates in the state of Tennessee should be reduced.

JOUROLMON described in detail what he considered the inflationary economic structure of the AT&T, and of the Southern Bell Company as a fragment of the AT&T telephone empire. He outlined certain company capitalizing and operating procedures which he claimed were outside of the law of the state of Tennessee. In general, Jourolmon wrote down in 54 typewritten pages the critical opinion of AT&T and the Bell system he has been expressing from time to time for some years.

From the foregoing it can be gathered that in at least one state the Bell system will have trouble obtaining rate adjustments. Whether the Tennessee decision will carry any weight in the judgments of other regulatory bodies is conjectural. But it can be noticed that other commissions are subjecting the license contract fee relationships between Bell companies and AT&T to more and more scrutiny. Any alteration of this relationship in the future might seriously affect the ability of AT&T to pay its traditional dividend yearly, it has been estimated.

That $9 dividend is assured for 1947, according to most financial observers.

National Minimum Wage Boost To Squeeze Independents

THE Tennessee decision was brought up before a congressional hearing in Washington last month. During the testimony of Clyde McFarlin, president of the Montezuma Mutual Telephone Company, of Montezuma, Iowa, before the House Labor subcommittee on the Fair Labor Standards Act, the new decree was suggested as evidence that a public utility commission had refused to raise telephone rates even though higher wages were being paid by the company.

McFarlin appeared as a representative of a group of independent telephone companies who fear that hiking the national minimum wage will seriously affect the stability of their industry. The Iowa executive (who, incidentally, draws a salary from his company of $75 per month) asserted that there would be five results following a rise in the national minimum rate. They are: (1) a rapid conversion to dial operations, with the consequent decrease in employment; (2) impairment of telephone service (curtailment of night and Sunday service, etc.); (3) large increases in telephone rates to all independent telephone users (estimated from $5 to $13 a year); (4) liquidation or sale of many small companies; (5) postponement of purchase of new equipment and replacement of obsolete telephone equipment.

Telephone wages take an amazingly high percentage of the revenue dollar, A chart presented by Mr. McFarlin showed the 1946 prospect below.

Company	*Operating Income (Millions)*	*Wages in Terms Of Income*
Chesapeake & Ohio RR	$ 200	44.5%
Commonwealth Edison	200	28.0
General Motors	2,000	44.3
Pacific Lighting	70	27.2
Inland Steel	220	27.3
Panhandle Eastern PL	28	12.6
Goodyear Tire & Rubber	620	27.9
Independent Tel. Co.'s	155*	65 to 80

*USITA 1946 annual statistical report cites income of class A and B companies, representing 85%-90% of total revenues of independent telephone companies, as $154,757,249.

MR. MCFARLIN called the committee's attention to the tendency toward absorption of smaller telephone companies by larger ones, which he said had been pronounced in the last twenty years. He spoke of the many pending applications for higher rates now before commissions awaiting decision, and reminded the members that even where commissions did not have to act (as in Iowa, where there is no commission regulating telephone rates), public reaction is often strong enough to preclude rate rises. He told of one occasion recently where protesting subscribers not only refused to accept a rate rise above $1 a month, but actually pulled the instruments from their walls and piled them in front of the telephone company building.

Recognizing that the committee had indicated some uncertainty in dealing with the present exemption in the Fair Labor Standards law for telephone operators in exchanges with 500 stations or less, Mr. McFarlin tried to explain the legislative reasoning behind that exemption. He stated that, at the time of the passage of the act, the small independents were assured that (1) they were services established within the exempted provisions of the act; and (2) they were not engaged in interstate commerce. But the Wage and Hour Administrator did not take that view, holding that because many systems tied into the Bell system, which was interstate in nature, the independents were, in fact, in interstate commerce.

Under the leadership of Senator Herring of Iowa, an amendment to the act was passed in 1939, a year after the act became law. Concluded Mr. McFarlin:

> The arguments which caused Congress to act in 1939 are just as valid today as they were at the time of the enactment of the amendment and become more weighty in any consideration of an increase in the minimum wage.

Under questioning from Subcommittee Chairman McConnell, Republican of Pennsylvania, Mr. McFarlin admitted that, if the minimum wage went up, the independent companies would like to see the exemption increased to 1,000 stations. This appeared unlikely of passage, however.

Later last month Secretary of Labor Schwellenbach asked for an increase in the national minimum wage to 75 cents, with a proviso that in a deflationary period the minimum drop back to 65 cents. This request also seemed unlikely to win approval of Congress.

News Roundup at Press Time

WESTERN UNION has asked the House Labor subcommittee amending the Fair Labor Standards Act for two changes in the statute. One would exempt from the act's provisions those employees of agencies, such as hotels, cab stands, news and cigar stores, who handle telegraph messages merely as part of their general trade. The other would clarify the definition of "oppressive child labor" to exclude certain types of work for children under sixteen from this category. At present all work is considered "oppressive" under the terms of the act. Telegraph messenger work, of course, would be excluded if the Western Union suggestion is adopted.

Telephone companies are now gathering evidence of their need for additional channels for mobile telephone service for their customers, in anticipation of FCC hearings on the subject beginning on December 8th. * * * The Magill committee report on taxes prepared for the House Ways and Means Committee advocated continuance of all forms of general excise taxes, but urged relaxing those where "inequities" exist. It is generally presumed on Capitol Hill that telephone excises fall into the inequitable category. * * * A record number of Bell system employees took advantage of the latest company offer to purchase stock in AT&T via payroll deductions. Nearly half the eligible workers signed for participation in the stock issue.

Financial News and Comment

By OWEN ELY

Capital Ratios of Electric Utilities

SHOWN below are the capital ratios for the electric utility companies since 1912, based on available data.

During the earlier history of the electric light and power industry it was customary to do much of the financing on a common stock basis through issuance of rights. In 1902, according to U.S. Census figures, the capital structure of the electric utility operating companies consisted of $255,000,000 long-term debt, $24,000,000 preferred stock, and $349,000,000 common stock (not including surplus). Assuming a moderate amount of surplus, the common stock equity was about 60 per cent of the total. Many New England companies had still higher ratios, and even today are outstanding for their high common equity ratios.

The equity ratio for all utilities declined from 60 per cent in 1902 to 37 per cent in 1937 and has since remained around that figure (the decline in stated amount of capital being offset by an increase in surplus). There now appears to be some danger that the ratio will drop further. The utilities have been resorting heavily to bank loans this year, but no current record of the aggregate amount is available. A part of such loans will, of course, be included in current liabilities and the balance in funded debt. Most of these loans mature serially over three to ten years and hence a large proportion would not be included in so-called long-term debt.

DURING the first nine months of 1947 all utility companies (including telephone and miscellaneous) sold $165,000,000 stocks as contrasted with $954,000,000 bonds to raise new money. Considering the additional increase in debt due to bank loans, it seems obvious that new financing this year has been too heavily in senior issues. If this trend continues over the next two or three years it may result in an unbalanced structure for many companies.

The electric utilities may conceivably at some future date find themselves in the same position as the railroads were in the 1930's—heavily loaded with debt at a time when earnings are on the downgrade. Some of the gas companies, such as Brooklyn Union Gas, have recently been experiencing lower earnings. Moreover, there is always the danger that, as the result of new developments such as atomic energy, a considerable part of the plant may become obsolescent.

A number of utilities have resorted to convertible securities during 1947, and more of this financing is probably on the way. In some quarters such financing is considered equivalent to equity financing; but this is only the case where there

	Debt	*Pfd. Stock*	*Common Stock*	*Surplus*	*Common Equity*
1912	42%	8%	45%	5%	50%
1922	49	11	34	6	40
1937	48	15	30	7	37
1942	47	15	31	7	38
1946	46	16	29	9	38

is a reasonable likelihood of conversion. If the conversion feature is made attractive enough and the stock market does not show a declining trend, conversion can of course be forced in future by calling the issue, but there is no certainty that it will be converted into stock by any particular year. Hence it appears a little dangerous to consider a convertible bond or a convertible preferred stock issue as the equivalent of a common stock offering.

A few companies have issued rights to subscribe to new common stock this year, as part of a rounded program. Others probably hesitate to raise money in this way because, almost invariably, the announcement of rights has a depressing market effect on a company's stock, and of course there is usually a reduction in current share earnings. The temptation, obviously, is to borrow through bank loans or bonds at the relatively low rates still prevailing. Three factors operate in favor of debt: (1) The high cost of current construction work would, if financed principally through common stock, tend to penalize common stockholders. (2) Thirty-eight per cent of interest charges are absorbed by Federal taxes, which is not the case with preferred or common dividends. (3) The "leverage" factor favors debt financing; thus a 6 per cent "fair return" on plant construction cost would be equivalent to about a 10 per cent return on common stock with a 40-20-40 per cent capital structure, and 14 per cent with a 50-25-25 per cent structure.

ALMOST every large operating utility already has formulated a finance program to provide construction funds, or will soon have to do so. In selecting various kinds of financing, the effect of the program on the company's capital ratios should be carefully considered. Short-term factors, such as unfavorable security market conditions and ease of obtaining bank loans, should not weigh too heavily as compared with long-term considerations. While there may be reason to believe that the downward trend of the bond market may be temporarily checked, there seems no good reason to believe that it can be reversed, at least for some years. On the other hand, common stock prices are low, and may well advance over the next two or three years, thus favoring the issuance of convertibles at this time. Because of difficulties with preferred stock financing, local sales of preferred (possibly to customers) may well be considered.

Analyses of Utility Securities

HAROLD YOUNG of Eastman, Dillon & Co. has prepared special studies on United Gas Improvement and Public Service Company of Indiana.

Regarding UGI, Mr. Young points out that "a large percentage of the present price of the stock is represented by cash, U.S. government securities, and investment securities for which active open markets exist. Therefore, a very low price is being placed on the company's interest in its majority owned subsidiaries, most of which are strong utility operating companies of Pennsylvania."

The company's principal subsidiaries are Luzerne County Gas & Electric, (90 per cent electric), Allentown-Bethlehem Gas, Harrisburg Gas, Consumers Gas, and Lebanon Valley Gas. Delaware Coach and its subsidiaries provide transit service in Wilmington and adjacent areas. The companies are all in strong financial position. UGI also operates the Municipal Gas Works of the city of Philadelphia (through a subsidiary), receiving a fee for this management.

The principal investment holdings consist of Commonwealth & Southern preferred, Niagara Hudson Power first preferred, Philadelphia Electric common, and Public Service of New Jersey 8 per cent preferred; these and smaller items have an aggregate market value of $19,353,000.

Including advances of $4,445,000, the Eastman, Dillon study estimates the value of subsidiaries at $25,349,000. Together with the investment portfolio ($19,353,000) and net current assets ($10,859,000), total assets are placed at

$55,563,000, or about $35.47 per share. The valuation of subsidiaries was worked out on a 12 times earnings basis; applying 10 times, share value would be reduced to $33.25.

The present regular dividend rate is $1.30 and an extra dividend of 50 cents also has been declared, payable December 20th. The stock is currently selling around 24 on the Stock Exchange.

PUBLIC SERVICE OF INDIANA is selling in the over-counter market around 40-41. For the twelve months ended August 31st, $4.55 per share was earned, not including the undistributed earnings of a subsidiary. The company early this year began a policy of paying dividends in the stock of its subsidiary, Indiana Gas & Water, in lieu of cash. As Mr. Young points out, this method of payment apparently has created complications, and the stock has declined in price. The stock dividend program will be completed not later than June, 1949, and the company is said to be budgeting resumption of cash dividends at the rate of $3.

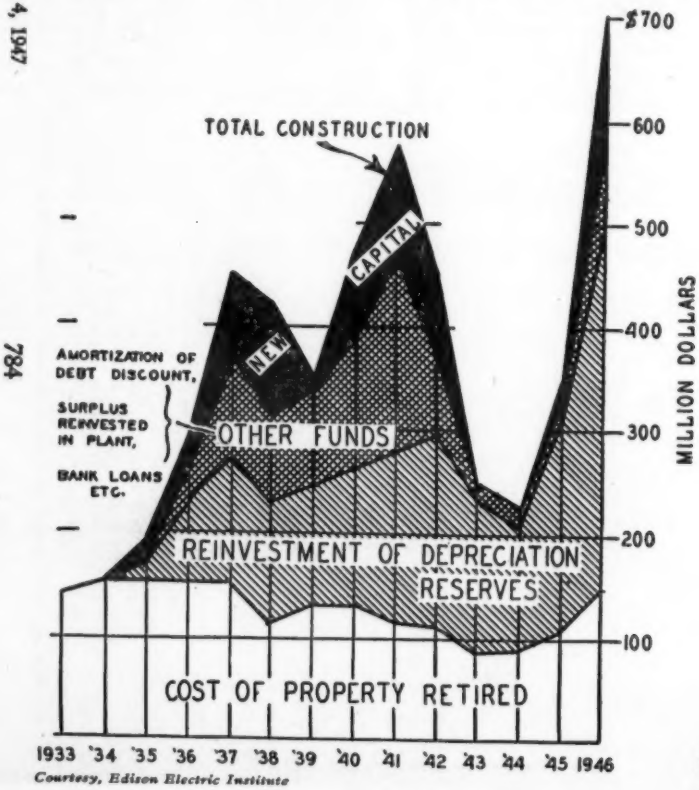
The company, by separating its gas and water business into the hands of the subsidiary, is now an all-electric utility.

PUBLIC UTILITY SECURITY OFFERINGS JULY-OCTOBER, 1947

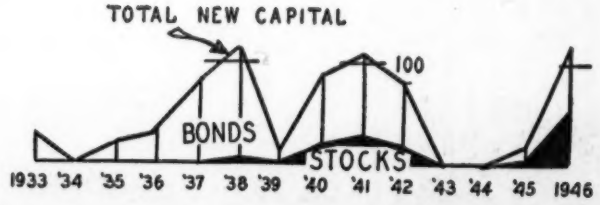
Date of Offering	*Moody Rating*	*Bond Issues*	*Amount (mill.)*	*Offering Price*	*Principal Syndicate Head*
7/9	Aaa	N. Y. Telephone Ref. 2¼ 1982	$125	103	Halsey, Stuart
7/17	Aa	Iowa-Illinois G.&E. 1st 2¾ 1977	22	101.4	First Boston
7/23	A	Arkansas P.&L. 1st 2¾ 1977	11	101.8	Halsey, Stuart
7/24	Baa	Pacific P.&L. 1st 3¼ 1977	27	102.91	W. C. Langley
7/31	A	Florida P.&L. 1st 3 1977	10	102.6	Lehman Bros.
7/31	Ba	Florida P.&L. S.F. Deb. 3¼ 1972	10	101	Halsey, Stuart
7/30	A	Mississippi Power 1st 2¾ 1977	3	101	Halsey, Stuart
9/11	Aa	Detroit Edison Ref. 2¾ 1982	60	101⅛	Coffin & Burr
9/10	Baa	Tenn. Gas Trans. 1st 3 1967	40	101⅛	Stone & Webster
9/18	A	Iowa Public Service 1st 3 1977	4	102½	Glore, Forgan
9/18	A	Monongahela Power 1st 3 1977	7	102	Merrill Lynch
9/25	Aa	Consumers Power 1st 2¾ 1977	25	102	Kuhn, Loeb
9/24	Aaa	Duquesne Light 1st 2¼ 1977	75	101.229	First Boston
10/1	Aa	New England Tel. & Tel. Deb. 3 1982	40	101⅛	Halsey, Stuart
10/1	Aa	Texas Electric Service 1st 2¾ 1977	7	101.51	Harriman, Ripley
10/8	Aaa	Pacific G.&E. Ref. 2¾ 1980	75	100	Blyth & Co.
10/17	Baa	South Jersey Gas 1st 4¼ 1977	4	102.17	Halsey, Stuart
10/16	Aa	Texas P.&L. 1st 3s 1977	8	100.99	Halsey, Stuart
10/22	Baa	Alabama Power 1st 3⅛ 1977	10	100.766	First Boston
10/22	Aa	Metropolitan Ed. 1st 3 1977	5	101.39	Kidder, Peabody
10/22	Aaa	Pacific Tel. & Tel. Deb. 3⅛ 1987	100	101¼	Halsey, Stuart
		Preferred Stocks			
7/21		Coast Counties G.&E. $1 Pfd.	2	$26	Dean Witter
7/30		*Public Service of Colorado 4¼% Pfd.	16	100	First Boston
9/9		Florida P.&L. 4½% Pfd.	10	100	First Boston
9/9		General Tel. $2.20 Conv. Pfd.	10	50	Paine, Webber
9/10		Tennessee Gas Trans. 4.25% Pfd.	10	103	Stone & Webster
9/18		Monongahela Power 4.8% Pfd.	4	104¼	Lehman Bros.
9/29		California-Pacific Util. $1 Pfd.	1	20.50	First California
10/30		Idaho Power 4% Pfd.	4	102	Wegener & Daly
		Common Stocks	*No. Shares (000 omitted)*		
7/9		Cleveland Electric Illum.	133	$43.25	Dillon, Read
8/5		New England G.&E.	311	11.75	First Boston
9/17		Atlantic City Electric	343	20.08	Union Securities
9/18		San Diego G.&E.	300	14.50	Blyth & Co.
10/8		*American Water Works Co.	277	8.00	W. C. Langley
10/30		Idaho Power	100	33.50	Blyth & Co.

* Public offering of balance of issue after exchange or subscription offer.

CONSTRUCTION EXPENDITURES AND SOURCE OF FUNDS, ELECTRIC LIGHT AND POWER COMPANIES, 1933 — 1946



Courtesy, Edison Electric Institute



What Others Think

Nationalization of Utilities and Industries Draws Criticism

On October 28th, Winston Churchill, British Conservative, and leader of his Majesty's opposition in the House of Commons, delivered a speech in the grand style for which he is widely noted. Well timed to coincide with the November 1st municipal elections throughout the United Kingdom, Churchill in effect keynoted the campaign to reverse the "leftward trend." The success of the Conservatives at the polls may or may not be a reflection of the speech, but it reflected the same spirit. The address puts in the record several good reasons why Britons are disturbed over their socialist government. Churchill stated:

> . . . I do not believe in the capacity of the state to plan and enforce an active high-grade economic productivity upon its members or some of them. No matter how numerous are the committees they set up, or the ever-growing hordes of officials they employ, or the severity of the punishments they inflict, or threaten, they cannot approach the high level of internal economic production which, under free enterprise, personal initiative, competitive selection, the profit motive to rectify failure, and the infinite processes of good housekeeping and personal ingenuity, constitute the life of a free society.

In this, Churchill attacked many of the assumptions upon which totalitarian governments are based. He condemned at once: inept governmental planning, meddlesome paternalism, bureaucracy, subtle and unsubtle attempts at compulsion, "leveling"—which means everyone accepts a lower standard, economics of scarcity, and the damper placed on individual initiative. On the positive side he reaffirms his belief in free enterprise, initiative, competition, free choice, profit incentive, and inventiveness born of freedom. Of the latter, he said:

> It is the vital creative impulse that I deeply fear the doctrines and policy of the socialist government have destroyed or are rapidly destroying in our national life. Nothing that they can plan and order and rush around enforcing will take its place. They have broken the mainspring and until we get a new one the watch will not go.

This statement, in which Churchill accuses the socialist government of destroying the vital mechanism of British economy, is the one by which the speech will be remembered. The pertinence of the metaphor is strengthened by its sharp application to England's present status.

He continued:

> . . . The reason why we are not able to earn our living and make our way in the world as a vast, complex, civilized community is because we are not allowed to do so. The whole enterprise, initiative, and genius of the British nation is being increasingly paralyzed by the restrictions which are imposed upon it in the name of a mistaken political philosophy and a largely obsolete mode of thought.

The inaccuracies of socialist economic theory, and the application of its anachronistic and sometimes utopian policies, are cited as the instruments which have dragged Britain's economy to a near standstill.

Churchill is concerned about future eventualities in the following. He stated:

> . . . I am sure that this policy of equalizing misery and organizing scarcity, instead of allowing diligence, self-interest, and ingenuity to produce abundance, has only to be prolonged to kill this British island stone dead.

As an antidote, he recommended:

> Set the people free—get out of the way, and let them all make the best of themselves, and win whatever prizes they can for their families and their country. Only in this way will Britain be able to keep alive and

> feed its disproportionate population, who were all brought into existence here upon the tides of freedom and will all be left stranded and gasping by the socialist ebb. . . .

CHURCHILL concerns himself later with the attitude of a small minority in Britain that currently has been anti-American. He refers apologetically to the epithet bestowed by a Mr. Silverman, —presumably an MP—who had referred to Americans as "shabby moneylenders." On this he commented:

> . . . This is no service to our country nor is it true. The Americans took but little when they emigrated from Europe except what they stood up in and what they had in their souls. They came through, they tamed the wilderness, they became what old John Bright called "the refuge of the oppressed from every land and every clime." They have come today to great estate and power, speaking our own language, cherishing our common law, and pursuing, like our great dominions . . . the same ideals.

Churchill answers indirectly the heckling Left's slur that "the United States seeks domination by lending Europe money with meddling intentions." Continuing, he said:

> I ask a rhetorical question, I put to myself: "What are dollars?" Dollars are the result of the toil and the skill of the American workingman, and he is willing to give them on a very large scale to the cause of rebuilding our broken world. In many cases he gives them without much prospect of repayment. And Mr. Silverman calls them shabby moneylenders!

For his effort, the wartime Prime Minister received his greatest ovation since the war. There was little doubt that the Churchill of old was on the stump again, and that he felt he must meet the challenge presented by the sorry plight of the island which he so recently defended from external enemies.

THE same situation seen through the eyes of a representative of the Labor government is slightly different.

Lord Inverchapel, British Ambassador to this country, has taken up the defense of the Labor government and criticizes the attitude of Americans who believe our aid should be given with some assurance that the program of nationalization (socialization) would be discontinued. Speaking at the annual dinner of the Academy of Political Science, he said:

> There are many serious-minded and thoughtful people in the United States who are genuinely disturbed lest even my country, which, after all, is the cradle of democracy as you and we know it, may fall by the wayside on account of what are felt to be misguided remedies based upon time-worn party shibboleths and applied to the new, harsh, and gnawing problems which beset the British Isles and Empire.

Inverchapel left little room for those who do not accept "leftism" as an irreversible trend, or the need for public ownership or control of key industries, or utilities. He is convinced that

> . . . those who fear for British democracy have simply been blind to or have ignored our whole political and social history.

He inferred that the Labor party was an admirable and typically British institution. Recent municipal elections and the disillusionment they revealed seem to speak for themselves.

Speaking of the Labor party, Inverchapel claimed:

> Its method is empirical, not doctrinaire. It seeks to reform, not to overthrow, and it holds tenaciously to the liberties which the older parties have won over the centuries, and has in fact widened them.

In addition, the Ambassador denied that the party was either Marxian Socialist or revolutionary. He stressed heavily an argument which might evoke some comment from the wartime Prime Minister, when he stated that the Atlee government's program was designed "to complete the measures of social reform which had been agreed upon and started by the Churchill government."

The Labor party came to power in 1945 after a wartime cessation of political campaigning to which it cannot be said it fully lent itself.

Its aims, he said, were to achieve demobilization of needed man power, and industrial reconversion. Secondly, it aimed at social reforms; and, he added,

> Thirdly, and most important, to take powers to control the nation's economy far enough to prevent the recurrence of the tragic and disastrous unemployment which we all experienced and deplored after the 1914 war.
>
> This meant control of credit through the nationalization of the Bank of England. It required that new capital issues should be reviewed and passed by a national investment board. It meant the nationalization of certain key industries; namely, coal, inland transport, and other public utilities.

It will be remembered that this same preoccupation with reforms and "controlling the economy" through nationalization has attracted popular opposition and is the basis for predictions that the government will be displaced.

Inverchapel attempts to placate the rising tide of opposition which he recognizes exists here, as well as in his own country, by putting an arbitrary limit on the extent of nationalization. He goes on to say:

> At the same time it was made clear that only 20 per cent of the economy was to be nationalized, and that every encouragement would be given to private industry outside the nationalized section.

How this can be done will be seriously questioned. Americans will recall from direct or indirect experience that once controls are imposed upon the economy their periphery must always be extended. The reason advanced is that one activity or commodity may not be controlled without extending controls and placing limits on other activities or commodities. That is the slippery road to total control. When Socialists are in power and face a crisis their usual remedy is not less, but more Socialism.

The Ambassador is willing to believe that all controls are abhorred, and that present restrictions in Britain are a "temporary necessity."

In a before-dinner discussion, Lewis H. Brown, chairman of the board of Johns-Manville Corporation, said that bringing an end to the nationalization of utilities and other industries should be made a condition to further aid to Britain "as a practical matter." A leading advocate of aid to Europe, Brown held that the threat of nationalization is sufficient to discourage any further investment in British industry. This, he deemed, was contributing to economic stagnation abroad.

—F. T.

Research Creates Competition

On September 30, 1947, ceremonies were held at the Locke Insulator Corporation dedicating the F. M. Locke Ceramic Research and F. H. Reagan Hi-Voltage Development laboratories at Baltimore. Edison Electric Institute Vice President Acker was on hand to accept the laboratories on behalf of the electric industries. That evening, at a supper for guests present at the dedication, Charles E. Wilson, president of General Electric Company, delivered the main address.

The GE president turned the attention of his audience away from the spectacular and disturbing headlines of page one to the routine and taken-for-granted daily achievements of Americans in order to show the true strength and greatness of our industry, its research, and our "way of life." He said:

> . . . I would like to examine with you, in a very calm, small way, some of the good things in life. Tomorrow we can go back to worrying about the others—and if we don't then worry quite so much, perhaps the time will have been well spent. Let us restore our sense of balance with a few dull figures which for all their dullness actually represent the real strength of the American economical system in its true light, and which, for that reason, supply us with a much more reliable crystal ball for calling tomorrow's events than some of the highly polished jobs that are currently being twirled in the capitals of the world—including our own.

In order to find out what our real situation is we cannot make a superficial examination of our surroundings and accomplishments; Wilson feels we must

scratch deeper. He posed the question:

> What does a more searching inventory of our system reveal? Three things: first, the truly dynamic character of the American economy; second, the projection of that character into the future, because nothing in sight so far can stop it; third, a social growth, or coming of age, that even we ourselves have not appreciated.

How are we sure that we possess these qualities and potentialities? Wilson provided the answer in the following:

> Evidence of the dynamic character of the American economy is found when we consider the rapid rise of industrial research, the increase in national output, the increase in worker output, and the growth of capital investment in the worker, to name the first things that come to mind.

Of research, the principal theme of the day's addresses, he said:

> In 1940, before we were fairly under the driving and expanding stimulus of war, the amount of formal industrial research being done in the United States had already increased ten times over the amount that was done in 1920. . . . If it were not for industrial research we would not be here—literally. I know of nothing so characteristic of the pattern of American economic growth, or so compelling in its results—on competition, on progress, on prosperity, on our whole national life—as this one factor.

ANOTHER piece of evidence, he finds, is our national output's tremendous increase. American productivity, he said, has been the deciding factor in two world wars. As he put it:

> . . . It is our tower of strength which even we ourselves underestimate, and I doubt very much if it will ever be torn down from a soap box. Europe inches along at from 35 to 40 per cent of its prewar industrial output; the United States is operating today at about 185 per cent of its prewar industrial output.

Wilson turns to the subject of inflation, prophecies of unemployment, and the business cycle's operation. He commented:

> . . . I believe we have tended to underestimate the strength of some of the postwar inflationary forces; that is, the reasons which underlie our inflation seem to have been more solid than we anticipated. We did not have the unemployment, forecast in certain quarters, because of a tremendous burst of public buying, which has held on longer than was expected. If this were a mere boom-and-bust cycle, the decline in orders—when it did come—would have been followed by cuts in production, employment, and buying power. But this has not happened, and the demand for goods has been sustained at such a level that it was possible to adjust unbalanced inventory positions without creating a recession in business activity.

He is convinced that, despite the rash statements of those who are attempting to prove otherwise, most of the increases in price are made reluctantly, because of their possible effect on volume of business. They are made, he stated, only because rising labor and material costs make such increases necessary.

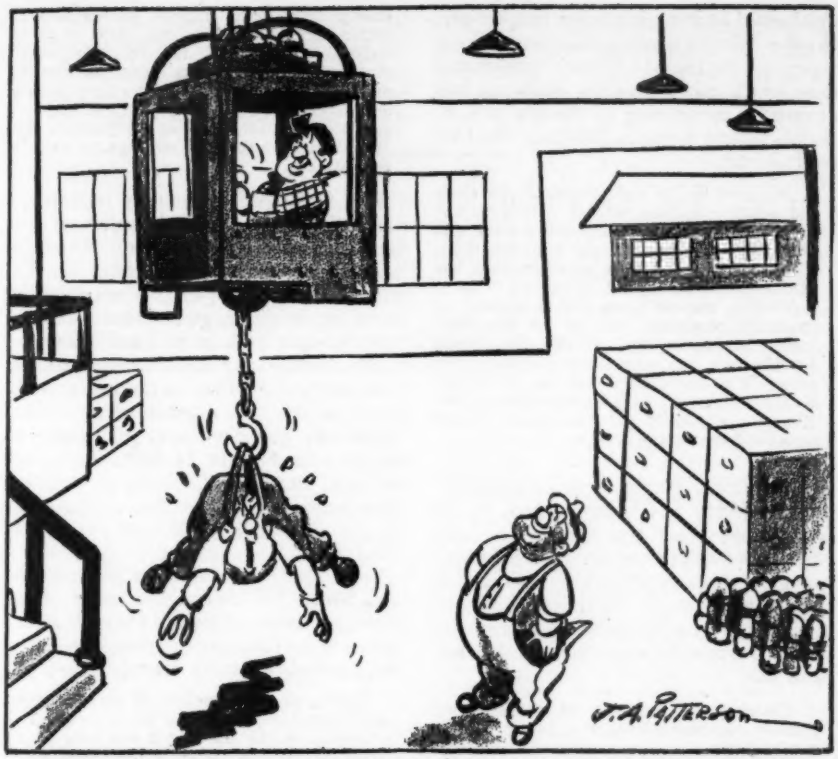
HE is certain that in our thinking about the postwar economic picture we have been considering only a few of the factors that provide the setting in which the individual acts take place. He believes:

> . . . we have concentrated our thinking so much on the idea that we have been building up inventory and filling needs deferred by war that we have overlooked what is now almost the main factor in our market—the large current demand caused by full employment at high wages. In July of this year there were a third more civilians employed than in 1939, and the real income of the average worker, allowing for the increase in the cost of living, was 27 per cent larger.

Increased worker output is a by-product of better methods, machines, and working conditions—one of the dependable ascending curves in our industrial experience. He stated: "Increased output per worker accounts for greater national output, and acts as an offset to increased material and labor costs."

Wilson cites as an interesting and logical fact that in the 60-year period between 1880 and 1940 the amount of capital that industry invests in its worker has increased three times, and that the share capital takes from the income has declined steadily. The only interpretation he can put on this fact is

> that risk capital has continually been willing to support American industry in increasing amounts; that the productive efficiency of the worker has been steadily increased



"THE TRANSFORMER DIVISION TOLD ME TO PICK UP THE BIGGEST 'POTHEAD' IN THE SHOP AND THROW IT OUT ON THE JUNK PILE"

through better tools and constant research; that greater production has resulted and that the worker has received a continuously larger share of the profits. This is the recipe from which we have concocted a dynamic economy.

HAVING supported the economy's character with the evidence contained in the first half of his address, Wilson believes that it would take little to project the curves obtained into the future and predict a probable national course of action. He declared:

> ... It would be comforting, in the face of the daily attacks upon our system, and in the face of the predictions that swell from within the country as well as from without that time is about to blow the whistle on the institution of private enterprise, to feel that we have only to stop our ears to the clamor and fight it out along the same old lines. Unfortunately this is not quite true. Like any fighter of experience we must do a certain amount of rolling with the punches and adapt our program of attack to prevailing conditions. But this is nothing new.
>
> The American capitalistic system has never been blind nor foolhardy nor reactionary in the long run or it would have fallen long ago. Its adaptability on defense has always matched its boldness on attack. We are possessed of a working, practical economic philosophy, proved by time and results.

He advises that we neither ignore our opponents, nor take them lightly, and above all let us not lose confidence in our own methods. He calls attention to the revolt against *laissez faire* and the rise of economic planning—constituting a distinctive Twentieth Century trend. He expresses the opinion that when these

are looked at in their proper proportions to other relative matters these forces only represent the increasing social consciousness which our expanding economy has aroused in its shaping of the destinies of people both at home and abroad. He contended that

> . . . we have had to make economic decisions and adopt conscious policies that were unknown to the early industrialist who was uninhibited by broad social considerations. This conscious economic policy making has accomplished much good, in the way of labor legislation, monopoly regulation, control of interstate commerce, and so on, but Professor Slichter points out that the chance for blunders and unintended results is also great. We must make sure, in the United States today, that we pursue policies which stimulate expansion of production, rather than limit or strangle it.

He notices that American economic thinking has been stunted, in effect, by the great depression. The concern it aroused, he declares, caused many to regard temporary conditions as part of a permanent trend. To these notions he attributes the undue emphasis on security at the expense of opportunity. He has faith that

> The dynamic character of our economy will be continued into the future by the plentiful supply of new materials, methods, and processes which have sprung seemingly from war experience, but actually were gathering momentum years before in the active crucibles of industrial research and in the tireless experimentation of specialists. The most spectacular of these, of course, is atomic energy. Startling progress in the medium of transportation and communication, which are themselves logical results of a competitive economy, will be the instruments of extending the scope of that economy, as they strike the shackles from undeveloped areas and create new services and businesses.

He lauds research and its accomplishments, its likely future contributions, and of the part it plays, he said:

> . . . Research creates competition, and, in America, because of the "unplanned" way we do business, we have a larger number of business enterprises, keener competition, and increasing expenditures for research. We have 10,000,000 centers of innovation—6,000,000 in agriculture and 4,000,000 outside of agriculture—where experiments are constantly being tried without having first to obtain the authority of the state or other controlling body. No regimented economy can compete with such a setup. By its very nature it must fall behind its own weight and inflexibility. These are some of the salient considerations for us to ponder, and from which we can take courage, as we face the future.

The fact that our country is both the economic and scientific center of the modern world is a tribute in itself to our research institutions, he stated. The increase in the number of scientists in America, in effect, guarantees increased competition. Wilson is fearful lest we underestimate our capacity to turn up with new enterprises. In the last seventy years, he said, the number of physicists, engineers, chemists, and metallurgists has increased 10 to 14 times as fast as the total number of employed persons. This increase has been due primarily to the rise of industrial research.

Along with all our other accomplishments Wilson cites evidences of our socio-economic maturity. He calls attention to some facts that we may have taken for granted. Notably among these:

> Today we are conscious of our leadership and our responsibility in the politico-economic world. In fact it has been thrust upon us. And we have adjusted ourselves internally over the years:
> . . . we have a more marked coöperation between industry and government agencies, for all of our disputes; we are striving for better housing and increased educational facilities; undoubtedly we have better living and working conditions; we have greater intellectual freedom, and we are stronger in the enjoyment and appreciation of civil rights. Even our troublous labor legislation itself, as represented by the Wagner Act and the Taft-Hartley Act, has moved us slowly toward industrial citizenship. We are making progress, even if we sometimes lose that fact in the grinding of the gears and the howls of the reluctant and recalcitrant.

We must keep ever uppermost in our minds, he said, the fact that today employees get some 60 per cent of the national income and the fact that three out of every four people in gainful occupations are employees. Our economy has thusly affected the national character of our population.

In his closing remarks, Wilson restates the idea expressed in his approach to his subject that he thinks it was more profitable and more pleasant if he ignored the hue and cry for the moment and drank in a little of the fresh air from the great and satisfying panorama of America—as it really is without contamination by distorted interpretation or alien influence.

—F. T.

AT&T's New Radio Relay

BEAMING telephone conversations and television pictures through space via seven intermediate stations on hilltops, the Bell system radio relay system between New York and Boston was opened November 13th for experimental use by Walter S. Gifford, president of the American Telephone and Telegraph Company. Simultaneous ceremonies in New York, Boston, and Washington—including a television program carried on the longest television network in existence—were linked by a circuit combining the new radio relay and the coaxial cable between New York and Washington, D. C. The ceremonies in New York were held at the Long Lines headquarters of the American Telephone and Telegraph Company, 32 Avenue of the Americas.

Radio relay is the newest type of long-distance communication facility to be used by the Bell system. By transmitting sharply focused radio microwaves along a line-of-sight path, it provides an exceptionally large number of long-distance circuits, which may be used for hundreds of simultaneous telephone conversations, for transmitting television, and for other communication services.

THE following comments on the radio relay system were made by Bell system executives during the inaugural program.

Walter S. Gifford, president of the American Telephone and Telegraph Company:

> We (the Bell system) are in the communications business and we intend to use the best and most economical means of giving communication service, whether by wire or radio. That point of view will continue to guide us and will lead, I feel sure, to the greatest service achievements.

Dr. Oliver E. Buckley, president of the Bell Telephone Laboratories, Inc.:

> Now we are going to use radio as an entirely new type of communication facility to carry a great volume of communications between our major cities. . . . Such a system actually becomes a work horse, if you will—a means of providing communication circuits in great numbers—hundreds, eventually thousands of telephone circuits, and, if necessary, dozens of television channels. Eventually we may have numerous radio relay routes binding cities together to any extent necessary. Even as we open the system between New York and Boston today, work is well advanced on a second system between New York and Chicago.
>
> Bell system radio relay is not in any sense a communication system merely parallel with, and outside of, the nation-wide Bell telephone network. On the contrary, our radio relay is designed to become an integral part of the entire network.
>
> To meet our objectives of dependability and high quality has demanded that we incorporate in this system a number of new and distinctive features. For example, the antennas which beam the radio waves from one station to the next are of radically new design. They are in effect lenses which concentrate the energy into a narrow beam of high intensity, much as an optical lens concentrates the beam of a searchlight, and they effectively prevent random radiation in other directions where it might interfere with other stations or routes. Furthermore, the wide bands of radio frequencies passing through the antennas may be carrying many different packages of electrical information at the same time. To separate these various units and route them properly, we have developed new microwave filters which are very interesting. I stress these points because to our minds they make for efficient, dependable, high-quality service.

The first telephone call, officially opening the radio relay system, was made by President Gifford, who talked with Joe E. Harrell, president of the New England Telephone & Telegraph Company, in Boston. Speaking from Washington, Paul

A. Walker, acting chairman of the Federal Communications Commission, and H. Randolph Maddox, president of the Chesapeake & Potomac Telephone companies, joined the conversation.

Walker said that the Federal Communications Commission was deeply interested in the progress of radio relay and expressed the opinion that the Bell system's radio relay development was an important contribution toward making the communication network of the country more useful and valuable.

As host to representatives of the press and radio and television executives, at the ceremonies in New York, Frank P. Lawrence, vice president of the American Telephone and Telegraph Company, in charge of the Long Lines Department, then introduced the intercity television broadcast. Lawrence said:

> The network is about 500 miles long and is the longest television network to date, making it possible to bring television programs to a potential viewing audience of about 25,000,000 people. This is, I believe, the largest population group so far brought within the range of network television.

The program was seen by audiences in all cities along the East coast having television broadcasting stations. The stations broadcasting the program were: WABD, WCBS, and WNBT in New York; WFIL-TV and WPTZ in Philadelphia; WMAR-TV in Baltimore; WMAL-TV, WNBW, and WTTG in Washington; and WRBG in Schenectady.

Titled "The Story of Seven Hilltops," the television broadcast began in New York, where Gifford, Carl Whitmore, president of the New York Telephone Company, and Lawrence participated in the early part of the program. The scene then shifted to Boston, to Harrell, whose image traveled by radio relay to New York, and beyond to Philadelphia, Baltimore, and Washington by coaxial cable. Next, Maddox and Walker, in Washington, joined the program and were seen on television screens in other cities of the network. Tom Shirley, announcer for the Bell system's "Telephone Hour," who was master of ceremonies, concluded the television broadcast in New York.

Following the television broadcast, Dr. Ralph Bown, director of research at the Bell Telephone Laboratories, conducted a technical demonstration of the radio relay system for the audiences in New York and Boston. This included the use of special test films and charts, arranged to show the capabilities of the radio relay system and its method of operation.

At the conclusion of the ceremonies, press and radio representatives made telephone calls over the new radio relay system between the two cities. Guests were shown the equipment involved in the demonstration.

Guidance for Employees

PUBLICATION of an illustrated guide to personnel benefits and privileges for the more than 7,500 employees of the Philadelphia Electric Company, was announced recently. The 68-page handbook, entitled *You and Your Company*, would be mailed to each of the utility company's employees. In addition to setting forth the organization of Philadelphia Electric's 66 departments and divisions, the booklet enumerates the various privileges accorded employees, ranging from medical services to membership in the company's athletic association. Although many of the standard benefits provided for employees originated before World War I, they are still considered modern innovations in employee relations.

General information about the company's operations also is noted in the new book, second of its type issued to employees in recent years.

The Philadelphia Electric Company system serves an area covering 2,340 miles with a population of nearly 3,000,000.

In 1947, about seven and two-thirds billion kilowatt hours will be supplied to approximately 826,500 electric customers.

The March of Events

In General

Pipe-line Expansion Urged

THE Federal Power Commission said recently a trial examiner had recommended that the Mississippi River Fuel Corporation be allowed to make a $13,654,140 expansion of its natural gas pipe lines from Louisiana to St. Louis.

If no exceptions were filed before November 25th and no commission action taken for ten days thereafter, the examiner's recommendation would become final.

The corporation proposes a series of loop lines, including 199 miles of 22-inch pipe, 20 miles of 10-inch pipe, and 2.3 miles of 12-inch pipe.

The proposed lines would connect with lines parallel to the company's 22-inch pipe line running northward from a point near Perryville, Louisiana, through Arkansas and Missouri to Illinois.

The expansion would increase sales capacity from 183,000,000 to 266,000,000 cubic feet a day.

The examiner recommended that the company be permitted to build the lines on condition that they not be used for new customers except for the Mississippi Lime Company, the Peerless Lime Company, Ste. Genevieve Lime Company, Standard Oil Company of Indiana, Illinois Power Company, Missouri Portland Cement Company, Shell Oil Company, and Union Electric Power.

To Direct Gas Production Research

DR. NEWCOMB K. CHANEY, for the past twelve years director of research for the United Gas Improvement Company, Philadelphia, has been appointed to direct the gas production research program of the American Gas Association, effective November 1st, it was announced by H. Carl Wolf, managing director of the association. Dr. Chaney took charge of the work previously directed by Edwin L. Hall, who has been appointed director of the association's testing laboratories at Cleveland and Los Angeles.

The association is engaged in a continuing program of research to find better and more economical ways to produce gas. In pursuit of this objective, gas production research projects are now under way at the AGA Laboratories, in utility plants, and at a number of universities, scientific and governmental institutions outside the industry. Dr. Chaney's work is to coördinate and guide these activities.

Action on Gas Bill Delayed

NO further congressional action on the Rizley-Moore natural gas bill is likely until the regular session of Congress, beginning in January, Representative Ross Rizley, Republican of Oklahoma, said recently.

In the meantime, an industry study of the probable effects of the legislation upon price of gas to consumers will be completed to answer what Rizley termed "misleading information" put out by the Federal Power Commission as to the effect upon consumer prices.

The bill, sponsored by Rizley and Senator E. H. Moore, Republican of Oklahoma, passed the House last session and is now in the Senate Interstate and Foreign Commerce Committee.

Alabama

Suit Protests REA Loan

THE Alabama Power Company has filed suits asking the Montgomery Circuit Court to review and set aside a recent order by State Finance Director W. H. Drinkard approving a $5,516,000 REA loan for the Alabama Electric Coöperative, Inc.

The petitions, filed on November 12th, charge Drinkard had no authority to override a prior ruling of John P. Shaffer, head of his department's local finance division, in which the coöperative's application was denied.

"Drinkard did not conduct, hear, or preside over any part of the public hearing in the case," the petitions said. "He did not hear or consider the evidence introduced . . . did not hear or consider the testimony of witnesses . . ."

The utility contended the Drinkard order was "invalid" because "it does not appear that such order was based upon the evidence or upon any consideration of the evidence in the proceedings."

Arkansas

Streetcars to Make Last Runs

ALL streetcars will be off Little Rock streets by midnight Christmas Day, replaced by the new trackless trolleys and motorbuses, President P. E. McChesney of Capital Transportation Company announced recently.

Trackless trolleys will be operated on that day on the Pulaski Heights-South Main line, and on the East Ninth line, which will be connected later with the Fair Park trolley line when overhead wire construction is completed. Motorbuses will serve Fair Park line meanwhile, and all other lines.

Transfers between Little Rock and North Little Rock were recently eliminated for those traveling the Park Hill lines.

Council Votes Levy

THE Little Rock city council last month voted a $55,000 annual tax against Arkansas Louisiana Gas Company, payable quarterly, but referred ordinances taxing Southwestern Bell Telephone Company and Arkansas Power & Light Company to the committee of the whole for later hearing.

Southwestern Bell had submitted an ordinance fixing its tax at the committee of the whole-approved figure of $45,000, but there was disagreement as to whether a clause should be included providing for deduction of any unpaid bills due the company from the city. E. N. McCall, district manager, recalled the company's difficulty in collecting pole rental this year, which the city had refused to pay. The city council held no contract existed.

The council was unable to reach an agreement with Arkansas Power & Light officials during an earlier committee of the whole hearing on the power company's proposal for readjustment of power and steam heat rates to the city. The proposed company tax was $80,000.

California

Railway Gets Rehabilitation Fund

THE public utilities commission of San Francisco last month voted to spend $6,500,000 out of the $20,000,000 bond issue voted on November 4th to provide an early start on rehabilitation of the municipal railway.

The commission, holding its first meeting since the election, requested Controller Harry Ross to recommend sale of the bonds to the board of supervisors so that the money could be made available in January.

Utilities Manager James H. Turner estimated that orders could be placed by February 1st.

The commission agreed to spend the first bond funds as follows:

1. Purchase of 20 58-passenger busses and 60 44-passenger busses at a total cost of $1,580,000.

2. The purchase of 60 44-passenger trolley coaches at a cost of $1,170,000.

3. Construction of garage facilities, $1,054,000.

4. The installation of overhead construction for trolley coach operation over 21.16 miles of streets, $582,000.

5. Repair of streetcar tracks, $1,103,000.

6. Remodeling of streetcar barns, $500,000.

Turner said remaining bond funds would be allocated in the railway's 1948-49 budget.

Colorado

City Seeks Court View on Charter

LEGAL controversy over Denver's proposed new charter, stemming from its defeat in last month's election, reached district court on November 15th in the first step to clarify whether another charter convention must be called.

City Attorney J. Glenn Donaldson filed a petition for clarification of Article XX of the Colorado Constitution, which has been interpreted differently by laymen and attorneys alike on its provisions for charter elections and conventions.

Mayor Newton asked Donaldson to press for a court opinion as "speedily as possible," terming it imperative that whatever doubt exists "be dispelled" quickly.

The mayor said he had been advised by Malcolm Lindsey, legal consultant to the recent charter convention, that the case first must be heard in district court, then go to the state supreme court. No action was expected on a second charter convention until supreme court opinion is determined.

The proposed charter was defeated by a vote of 32,532 to 26,516, giving Mayor Newton his first major political setback since he rode into office on a landslide last May.

The charter's defeat was generally interpreted as an uprising of home-owning taxpayers against fears that municipal levies would be increased sharply. Newton contended throughout the campaign, however, that any tax boost resulting from the document would be extremely small.

Under the proposed charter, control of public utility companies would be placed in a board appointed by the mayor, rather than in the state public utilities commission.

Power Rates Cut

ANNOUNCEMENT of a reduction of rates by the Poudre Valley Rural Electric Association, Inc., was made recently by W. A. Besel, manager. The association serves 2,300 farm customers in Larimer, Weld, and Boulder counties.

The reduction was made retroactive to November 1st, Besel said, following approval by the Rural Electrification Administration at Washington of a long-standing application.

For farm and home service the basic charge of $3.40 a month for the first 40 kilowatt hours will be dropped to $33. The next 40 kilowatt hours remain unchanged at 5 cents but the next 120 kilowatt hours drop to 2 cents, a cut of half a cent. Some other changes were made in the schedule.

Florida

Not Subject to State Tax

THE state supreme court last month ruled that natural gas piped into the state for sale is in interstate commerce and is not subject to Florida's gross receipts tax. The court, in a 6-to-1 decision, upheld the Leon County Circuit Court in a suit originally filed against the United Gas Pipeline Company by the late Comptroller J. M. Lee in 1942.

Court records showed the company pipes the gas from Louisiana through Mississippi and Alabama to Escambia county, for sale to customers in Florida.

The company contended it was not liable for the $1.50 tax on per $100 of gross receipts, enacted in 1931, because the tax applied only to business "done between points in the state of Florida."

The state comptroller appealed the lower court decision and contended the interstate nature of the business ends when the gas is delivered in Florida and the sale is not consummated until delivery is made.

Georgia

Silent on Clark Hill Action

OFFICERS of the Georgia Power Company, Atlanta, said recently they had no comment on a decision by the fourth circuit court of appeals in Baltimore affirming the action of the Federal Power Commission in refusing to grant the Savannah River Electric Company, an affiliate of Georgia Power, a permit to build the Clark Hill dam, on the Savannah river, above Augusta.

The Corps of Engineers is now engaged in work on this $46,000,000 project, the first of a series of similar projects designed to develop the Savannah river basin along TVA lines. The Savannah River Electric Company sought to take over this work from the Corps of Engineers and complete the Clark Hill dam.

In the decision, written by Judge John J. Parker, and concurred in by Judge Morris A. Soper and Judge Armistead M. Dobie, the court said there is "grave doubt" as to whether the FPC had power even to consider the application of the Savannah River Electric Company.

Kentucky

Lease Adds More Gas

A PIPE-LINE leasing plan enabling the Central Kentucky Natural Gas Company to bring an additional 3,500,000 cubic feet of fuel into the Bluegrass area on cold days has been approved, the state public service commission announced recently.

The company said it would lease the 24-mile long, 8-inch line from Petroleum Exploration, Inc. The leased line originates near Richmond and stretches to Lexington.

At present, the line is supplying the Central Kentucky Company. But when the weather becomes severely cold this winter and the company needs more gas, it will get the additional fuel from the Tennessee Gas & Transmission Company. Ed O'Rear, commission engineer, said the 3,500,000 cubic feet, in addition to the company's regular supply, could be put through the line by applying higher pressure.

The lease expires October 1, 1948.

Gas is sold at wholesale by Central Kentucky to outlets serving Frankfort, Midway, and Richmond. The company sells at retail to customers in Lexington,

Georgetown, Cynthiana, Winchester, Mount Sterling, and other communities.

Power Users Get Rate Cut

BOWLING GREEN users of electricity are expected to save an estimated $36,300 annually through rate reductions announced last month by the electric plant board.

The reductions, scheduled to go into effect December 1st, will give Bowling Green the lowest electric rates in Kentucky and among the lowest in the nation, according to Hubert Cherry, superintendent of the board.

He said new rates would be less than those of the Tennessee Valley Authority, making Bowling Green the first city in the state below that level.

Residential consumers and operators of small businesses will receive the greatest benefits from the reduction, Cherry said. They will pay approximately 12 per cent less for electrical power. Industrial consumers will pay about 10 per cent less.

The rate reduction has been approved by the TVA, Cherry said. The Federal agency sells low-cost electricity to the board for distribution.

Massachusetts

Rate Increases Proposed

PROPOSED rate increases, under which Boston householders would pay an average of 46 cents more a month on their gas bills, were filed with the state public utilities commission last month by the Boston Consolidated Gas Company. The utilities commission was scheduled to set a date for a public hearing on the application.

The proposed rates for domestic users would be 10 cents for the first 200 cubic feet used each month; 2 cents per 100 for the next 3,800 cubic feet; and 1 cent per 100 for all gas over 4,000 cubic feet used each month. Increases for commercial customers would be slightly more in the initial steps of the rate, but for all gas consumption of more than 100,000 cubic feet per month the increase in the rate would be one-half cent net per 100 cubic feet.

E. M. Farnsworth, president, said the increased rates were necessitated by mounting costs of labor and materials, and added that the present rates have been in effect since October 1, 1939.

Utility Bills Filed

MASSACHUSETTS public utility companies would be subjected to tighter restrictions under bills filed with the house clerk last month by a Boston legislator. They would have to establish uniform gas and electric rates throughout the state, would be prohibited from imposing an extra charge for seasonal use of gas and electricity, would have to install meters on supply tanks of householders using illuminating gas, would be required to pay a "reasonable amount" to private property owners where they use poles carrying wires for transmission of intelligence, and would have public representatives named by the governor on the directorates of water, gas, street railway, railroad, and insurance companies.

Mississippi

Legislature Approves Bills

GOVERNOR Fielding Wright was scheduled to sign a half-dozen bills designed to eliminate violence in the 178-day-old Southern Bus Lines strike.

The bills, passed by a special session of the legislature which completed its

work on November 15th, give the governor a state police force to investigate violence and illegal interference with various state transportation facilities.

Also outlawed was the possession of explosives for violent purposes.

Missouri

Governmental Employees Not Covered

MISSOURI'S state constitutional guaranty of the right to organize labor unions and bargain collectively does not cover governmental employees, according to a ruling handed down last month by the state supreme court in two separate decisions which will affect employees of publicly owned utilities as well as other governmental workers in the service of the state and its political subdivisions.

In one case the high state tribunal denied the right of bargaining to employees of the city of Springfield, including those in its public utilities department. The other decision upheld the St. Louis Board of Police Commissioners in banning union membership by policemen.

Written by Judge Laurance M. Hyde, the court's opinion in the Springfield Case asserted flatly that a collective bargaining section in the bill of rights of Missouri's 1945 Constitution "can only be construed to apply to employees in private industry. . . . It cannot apply to public employment."

Pennsylvania

Gas Rationing Started

THE gas shortage has started to take its winter toll of Pittsburgh industry. One hundred industrial customers of Equitable Gas Company have been cut back 40 per cent in the amount of gas they can use.

One company, in operation in Lawrenceville sixty-nine years, has closed down, with lack of sufficient gas given as the main reason.

Equitable officials explained that the early rationing of 60 per cent to industrial patrons may avoid 80 to 100 per cent shutdowns during severe cold spells later. The curtailment put into effect in advance of extreme emergencies will enable the company to maintain higher storage levels. Equitable has refrained from limitations on household patrons.

Sues Union for Strikes

THE Penn Transit Company of McKeesport has filed a $10,000 damage suit against the union of its drivers, General Manager Floyd Dentzer announced last month.

It charges Division 1214 AFL Amalgamated Association of Street Electric Railway and Motor Coach Employees with "breach of contract," he said. The suit alleged that the union struck illegally four times since 1943, but the attempt to recover $10,000 in damages specifically referred to a 4-hour walkout on November 6th in support of a discharged driver.

South Carolina

Public Hearing Set on Merger

A REQUEST from Governor Strom Thurmond for a public hearing on the proposed merger of two large electric companies was followed recently by a South Carolina Public Service Com-

mission order setting a hearing on December 2nd.

Two groups have protested the merging of the South Carolina Electric & Gas Company and the South Carolina Power Company of Charleston.

State Senator O. T. Wallace and Mayor William M. Morrison of Charleston protested to the commission against its approval of the South Carolina Electric & Gas Company's issuance of securities to acquire the assets or securities of the power company in their city.

Munson Morris of Aiken, chairman of a coöperatives' committee on lower power rates, said the group had endorsed the petition filed by the Charleston officials. Morris said that the coöperatives favored the acquisition of the Charleston utility by the Santee-Cooper Authority, which previously had negotiated to purchase the company.

Utah

Gas Rate Cut Ordered

THE state public service commission on November 15th ordered the Mountain Fuel Supply Company to reduce its natural gas rates and charges by $1,366,291 annually, beginning not later than January 25, 1948. If the ordered reduction is applied to residential and commercial rates only, a 36 per cent decrease will be granted those users.

The order, signed by Chairman Donald Hacking and Commissioners Oscar W. Carlson and W. R. McEntire, was the outgrowth of a general rate case investigation of the company begun in November, 1945.

The utility was expected to appeal the commission's order to the Utah Supreme Court.

Although both the rate base and rate of return on it are substantially lower than the figures supported by the company, they are higher than those asked by the commission's staff during the rate hearing.

The commission in its report and findings set the rate base at $21,011,145, upon which a rate of return of 6 per cent was ordered as "fair and reasonable."

To Raise Power Output

TWO important developments intended to assure adequate electric power for the greatly expanded industrial and agricultural needs in Iron and Washington counties took place last month at Cedar City as public officials and utility concerns launched an intensive effort to avert power shortage such as was experienced at the height of the farm-pumping season last summer.

A meeting sponsored by the Escalante Valley Electric Association, a coöperative serving farmers and other users in the Beryl-Newcastle area of Iron county, resulted in formation of a committee to work on the electric power situation in the two counties. Officials hope to secure enough additional power to carry through the 1948 season as well as development of electric power for future needs.

The Southern Utah Power Company, which supplies the energy distributed by the coöperative association as well as serving Cedar City and all of the industrial and agricultural users in Parowan and Cedar valleys, announced plans for installation of two additional Diesel generating units. Preliminary surveys are under way for additions to generating capacity of the company's steam plant in Cedar canyon, company officials reported.

L. E. Tueller, Iron county agricultural agent, said the meeting of pumpers, industrial users, and electric association officials was called at the suggestion of the Iron County Commission. H. L. Adams, Parowan county commissioner, was named chairman of the temporary committee to investigate possibilities for additional power development.

Virginia

Transit Company Presents Case

THE Virginia Transit Company presented its argument against a 50 per cent increase in the share of bus receipts paid to the city of Richmond before the city council's streets committee last month.

In addition to protesting that the transit company cannot afford to increase the city's share of bus revenues from 5 to 7½ per cent, its officials also asked that it be permitted to take up its streetcar tracks over a period of years instead of immediately, and they said they could not give the city a clear title to the streetcar right of way on Grove avenue, leading to the University of Richmond.

The transit company said it paid the city last year $87,857 in gross receipts taxes from busses and $82,239 for streetcar operations. In addition, the company said it spent $2,179 for new paving and $12,505 for paving maintenance last year. The grand total was $184,780, compared to an average of $127,575 for the past fifteen years.

Washington

Oppose Company Merger

STATE Democratic county chairmen last month were on record as opposed to the proposed merger of the Pacific Power & Light Company, Portland, and the Washington Water Power Company of Spokane.

In a session at Olympia on November 10th, the county chairmen resolved to ask Governor Mon C. Wallgren to use his influence with the state department of public utilities to block the proposed merger of the two companies into a regional utility system.

The resolution stated the merger "would make the private companies more monopolistic and more effective in trying to block western development." A spokesman for the group indicated the chairmen instead favored a larger field of opportunity in the Northwest for public utility districts.

The Pacific Power & Light Company now serves a large area in the Lower Columbia river valley, while the Washington Water Power Company serves an extensive eastern Washington area.

Gas Rate Increase Authorized

INCREASED rates, applicable largely to major commercial and industrial users with reduced charges to domestic users with average requirements, were authorized last month for the Western Gas Company in Bremerton, Longview, and Kelso.

The increase, announced by Andrew J. Zimmerman, director of the state department of public utilities, would permit additional net revenue of about $15,500 annually. It became effective with November 16th meter readings.

The director said the boost was attributable to increased operating costs.

Given New Franchise

BY a 2-to-1 vote, the Puget Sound Power & Light Company was granted a 10-year nonexclusive franchise in Bremerton last month.

Mrs. Lulu Haddon, commissioner of finance and sanitation, voted in opposition after stating she believed the application should be referred to the voters. Mayor L. H. Kean and Public Works Commissioner Howard I. Gorst cast the favorable votes.

J. Harvey Leach, the company's western division manager, said almost all cities in the state using Puget Sound power had granted 25-year franchises, but a 10-year franchise was requested in Bremerton to conform with charter limitations.

The Latest Utility Rulings

Telephone Rate Increases Are Related to Service Value and Cost

VALUE and cost of service are recognized by the Connecticut commission as important elements in telephone rate making. Business service, for example, has a much higher usage factor than residential service. This larger use, says the commission, indicates its greater value to the business user and hence a higher cost in furnishing the service. Business service should, therefore, bear a larger rate increase than residential service.

Greater use is made of telephones as the size of an exchange increases, inasmuch as the subscriber can reach more people and more people can reach him.

The value of such greater use also increases, but the weight which should be given to this value as well as the cost of supplying the service had not been determined. Therefore, the company was required to continue in force its present classification until such time as a comprehensive study has been made.

A necessary upward adjustment in rates as authorized by the commission took the form of a general increase applicable to all subscribers. The present level of rates for residential customers was increased by 10 per cent or by 25 cents a month, whichever should be greater, for both multiparty and 2-party residential service, and by 15 per cent for residential individual line service, the highest grade of service available. Adjustments would be made on this basis to the nearest 5 cents as a unit.

The company proposed to offer, in a number of exchanges, what is commonly known as extended local service. This contemplates the privilege of calling nearby exchanges without additional toll charge. The commission thought that larger increases than those granted in exchanges where extended local service is not offered would be justified.

The burden of the increase in toll rates, said the commission, would be lightened for subscribers if the initial period on a 10-cent toll call was left at five minutes instead of being reduced to four minutes as proposed. Likewise, lengthening the initial period on the 15-, 20-, and 25-cent toll rates from three minutes to four minutes would reduce revenues from those requested by the company.

The company had in effect some 5-cent toll routes operated at a loss. The commission thought it would be unduly discriminatory to continue to permit those subscribers paying a 5-cent toll rate to receive such service under circumstances of a substantial loss. A revision of toll schedules was required so that the initial step would be a 10-cent charge for distances from 0 to 10 miles.

Operating revenues, said the commission, had increased 105 per cent since 1939, but the expense of providing service had increased 135 per cent. Of every dollar spent in supplying service 70 per cent represented wages and related payments, such as social security taxes. A public utility company paying for materials and labor, the commission declared, cannot escape the impact of the increased price levels any more than that of any other business enterprise.

Such a company, in common with other enterprises, must depend upon its net earnings to support its credit and to attract necessary capital.

Expenditures for charitable contributions and donations to worthy causes were not criticized, but the commission thought they should be charged against stockholders.

An adjustment was made in the pension fund expense to exclude an amount that "present subscribers are asked to pay, under the claim of the company, because the company failed to provide for interest on the amount of the unfunded liability commencing in 1928." *Re Southern New England Telephone Co. (Docket No. 7953).*

Overlapping of Numbers in Telephone Exchange Classification Is Discriminatory

A DEPARTURE from the customary method of fixing exchange telephone rates on the basis of classification of exchanges according to number of stations in each exchange was criticized by the Idaho commission in a rate proceeding. Such a schedule where the division lines are well defined between each graduation, said the commission, avoids the statutory prohibition against discrimination. A system of overlapping of numbers as between groups, however, results in discrimination.

The classification of exchanges proposed by the company provided, for example, that those in Group I would have from 1 to 250 stations while Group II would have from 200 to 500 stations. Group V would have from 1,400 to 4,000 stations and Group VI from 3,700 to 7,000 stations. The commission said:

> . . . it is possible under such a schedule to have two exchanges with exactly the same number of stations assigned to different groups and paying different rates for precisely the same service. This possibility readily becomes reality with such a system of overlapping schedules having in common a range of 50 stations that would come within either the first or second group, 100 stations between the second and third groups, third and fourth, fourth and fifth, and common ground of 300 stations between the fifth and sixth groups. Thus the basic company theory of higher rates as a measure of higher value incident to increased number of stations is compromised, and abandoned in so far as the overlapping intermediate areas are concerned.

A further objection to the company's classification method was made because of the assignment of exchanges to various groups on the basis of actual number of stations plus deferred applications. The company explained that it anticipated that the exchanges would actually attain the higher numbers by the time the schedule became effective. The commission thought that only the actual number of stations at the time of filing schedules should be the basis of group classification.

Not much reliance, said the commission, can be placed upon statistics based on a fractional period of a year in a determination of a rate of return necessarily extended into the unforeseeable future. Adjustments, it was pointed out, had been made in the fourth quarter 1946 figures affecting all quarters of that year.

The company had been confronted with labor troubles, and revenues and operating expenses for the future were uncertain. The situation, said the commission, had a definitely emergency character, and higher rates were authorized subject to reëxamination in the light of "less troublesome economics."

The company maintained that monthly exchange revenues are not in fact collected one month in advance of due date because of the extended period required by the billing cycle and the lapse of time between mailing and receipt of payment. This question arose in connection with the matter of working capital allowance. The opinion stated that, while this is doubtless true, the commission took the position that collections are in fact made a month in advance of the time they otherwise would be made where the same

cycle starts a month later or at due date.

Redemption of a bond issue had resulted in the company paying less income tax.

The commission held that the amount saved never accrued as income tax, was never paid as income tax, and should not, therefore, be reflected as an item of expense.

The company had included an item for income tax paid for the American Telephone and Telegraph Company. The commission said that it does not object to charges for legitimate service performed under a contract with the parent company but this was an improper charge in the expenses of the operating company. *Re Mountain States Telephone & Telegraph Co. (Case No. F-1349 on rehearing, Order No. 1922).*

Limitations on Rehearing

THE Federal Power Commission has no authority to grant a rehearing upon an application filed almost two years after the action complained of was taken by the commission. Moreover, a "minute" entered by the commission to indicate the basis for its authorization to institute legal proceedings is not an order of the commission and is not a subject for rehearing.

The commission made these rulings on an "application for rehearing and other relief" filed by Michigan Consolidated Gas Company. The commission by order, in 1945, allowed rate schedules of Panhandle Eastern Pipe Line Company to take effect. Michigan Consolidated was a party to the proceeding.

Recently the commission sent letters to both companies notifying them that the commission considered certain of their transactions to be violations of the terms of a lawful rate schedule on file with the commission. The commission advised them concerning the legal action it contemplated to enforce the provisions of a lawfully filed rate schedule. About a week later the commission entered the "minute" to indicate the basis for legal proceedings. *City of Detroit et al. v. Panhandle Eastern Pipe Line Co. et al. (Docket Nos. G-200, G-207).*

Electric Company Need Not Sell Current For Resale to Tenants

A PETITION by a company owning and managing real estate in the city of Boston for a supply of electricity by Boston Edison Company was dismissed by the Massachusetts Department of Public Utilities. A. W. Perry, Inc., has for many years resold electricity to tenants and to others who are located within the same city block as one of its buildings. It makes a profit on the resale.

In the early stages of the industry all current furnished was direct current. When Edison was considering the problem of resale posed by middleman activities, it decided to refuse to extend this practice, and particularly to refuse to furnish alternating current for resale to persons other than tenants.

The commission did not think that the difference between direct and alternating current alone furnished any sound basis for refusal to serve, nor did it believe that the contractual status of the ultimate consumer as a tenant should make any difference.

The commission cited evils resulting from submetering. Most of Perry's customers were charged at appropriate Edison rates as filed. Some cases, however, existed where the consumer received current for less than he would otherwise have to pay. The commission called this discriminatory.

In at least one case another middleman participated in profits derived from resale. There was said to be nothing to

prevent an extension of this practice to the point where each business block in the city would be furnished current by its own retailer, which might so adversely affect the utility company's revenues as to require a revision of rates, to the detriment of ordinary customers. The retailers denied commission control over prices, practices, or service.

The Perry company was held to be operating as an electric company in selling and distributing electricity even though it did not use the streets. It had complied with none of the statutes relating to electric companies. It had filed no tariffs or annual reports. The commission said:

> To compel Edison to furnish current to Perry for purposes of resale would, in our opinion, be equivalent to a condonation, if not approval, of the type of business which Perry is carrying on. This we decline to do.
>
> We do not feel that we are, by this decision, jeopardizing Edison's revenues through encouraging the installation of private plants to serve Perry's customers. If our reasoning is accurate on the facts before us, Perry has no more right to establish a private plant and sell to its customers without subjecting itself to our jurisdiction and obtaining the necessary authority than it has to buy current from Edison for the same purpose. There is no law against Perry's installing a plant to supply current for its own use. In our opinion, there is a law against Perry's manufacturing such current for sale to others.

A. W. Perry, Inc. v. Boston Edison Co. (DPU 7697).

Owner of Housing Project Is Denied Wholesale Electric Service for Resale

THE Georgia commission dismissed a complaint against a rate revision by the Georgia Power Company to make its rate schedule for wholesale purchase of electricity by Federal, state, and municipal agencies and institutions for redistribution inapplicable to low rental housing projects.

A company planning a large housing project beyond corporate limits of the city of Atlanta contended that it would have to provide street lighting and it would be more economical and beneficial if all electric service could be purchased at wholesale. It proposed to furnish electricity to tenants and to include the cost in the rental charge.

The company argued that such service to the operator of a housing project would, in effect, make the operator a public utility. The commission said:

> In the past the commission has received numerous complaints from tenants who were at the time required to purchase their electrical requirements from their landlord and this situation does not lend itself to efficient regulation by the commission. It is the opinion of the commission that all utility service should be provided to the ultimate consumer by the utility serving the area, in that way insuring uniform cost of service to all consumers of the same class.

The question of reliability and adequate service, the commission continued, is also important. Commission control over utilities insures good service at reasonable cost. This may not be realized if utility service is provided through an intermediate party.

Moreover, a provision for electric service at a flat charge contained in the rent, said the commission, represents discrimination between users of service. This also encourages wasteful use. *D. L. Stokes & Co., Inc. v. Georgia Power Co. (File No. 19314, Docket No. 8672-A).*

Streetcar Token Fare Increased

IN two companion cases the Minnesota commission authorized the Minneapolis Street Railway Company and the St. Paul City Railway Company to in-

crease the token rate of fare from six tokens for 45 cents to five for 45 cents. A 10-cent cash fare was allowed to be continued.

The commission included in the rate base such value as inheres in the property by reason of the fact that it is an operating and going concern. Operating revenues for the coming year were based on the assumption that the number of passengers would be 3 per cent less than was the number carried in 1946.

Deferred maintenance expense was disallowed as an operating charge. The commission said that this item related to past operations for which the company had established a reserve to finance the cost of property restoration. Furthermore, it observed, in recognition of the increased use of the company's facilities, it had authorized an increased depreciation charge. It had also allowed the companies to include in operating expenses the cost of streetcar rehabilitation which used to be charged to the depreciation reserve.

The commission, having found that even under the increased rates there would be a reduction in net earnings, held the new rates would yield a reasonable return.

Commissioner Ray P. Chase strongly dissented in both cases. He opposed the increases for four reasons: (1) that the increases were not needed by the companies, (2) that they were unfair, (3) that they would be harmful to St. Paul and Minneapolis, and (4) that in these orders the commission approved in advance a proposed breach of contract. He said:

> The increase ordered is unfair to streetcar riders. This order promotes profiteering on poverty. Streetcar riders range from the ranks of the reasonably well-to-do to the extremely poor. The wealthy do not ride streetcars.
>
> Section 220.11, Minnesota Statutes 1947, says that this commission shall fix streetcar fares at rates which are "just, fair, and reasonable." The applicant companies and their counsel construe the law as referring only to streetcar companies. I construe it as referring with equal force to human beings, to those who ride the cars, and who by their fares make possible streetcar operation. Is the proposed rate "just, fair, and reasonable" for them?
>
> I also consider it the function of the railroad and warehouse commission to be a militant, aggressive defender of the rights of the people, interested in their welfare and actively protecting it. I do not view with equanimity orders of this commission which take money from poor people who need it and hand it to public service corporations which do not need it.

He also believed that the increase would give impetus to the present inflationary spiral. *Re St. Paul City R. Co. (File No. A-5971-1); Re Minneapolis Street R. Co. (File No. A-5972-1).*

Dissenting Justices Criticize Decision on Officer Participation in Reorganization

MR. JUSTICE JACKSON of the Supreme Court has filed a dissent from the decision of the court in Securities and Exchange Commission *v.* Chenery Corp. (1947) 69 PUR NS 65. Mr. Justice Frankfurter joins in the dissent.

The majority had upheld an order of the Securities and Exchange Commission denying to certain officers and directors equal participation with other stockholders in a reorganization. Stock had been acquired by them without fraud or concealment, by over-the-counter purchase, while the reorganization was pending.

The court had previously disapproved a similar order in (1943) 47 PUR NS 15, on the ground that transactions otherwise legal cannot be outlawed or denied their usual business consequences unless they fall under the ban of standards of conduct prescribed by an agency of government authorized to prescribe such standards.

In the present case the court held that the absence of a general rule or regulation governing management trading dur-

ing reorganization did not affect the commission's duties in relation to the particular proposal before it.

Justice Jackson termed these "two conflicting philosophies" which produce opposite results in the same case and on the same facts. He said:

> The difference between the first and the latest decision of the court is thus simply the difference between holding that administrative orders must have a basis in law and a holding that absence of a legal basis is no ground on which courts may annul them.

The writer of the dissenting opinion referred to the principle of judicial deference to administrative experience. He asked what use it is to print a record or brief or to hear argument if a court is obliged to defer to administrative experience and to sustain a commission's power merely because it has been asserted and exercised.

He suggested that administrative experience is of weight in judicial review only to this point—it is a persuasive reason for deference to the commission in the exercise of its discretionary powers under and within the law but cannot be invoked to support action outside of the law. *Securities and Exchange Commission v. Chenery Corp. et al.*

"Favored Nation" Clause Held Inoperative

THE United States Circuit Court of Appeals for the Fifth Circuit affirmed a judgment of the Federal District Court in favor of a natural gas company in a suit to recover for gas sold to a distributing company.

The distributor in its defense pointed out that its contract contained a "favored nation" clause under which it was entitled to the lowest rate at which gas was sold to any other distributor. It claimed it already had paid more than was due.

The court overruled this defense and pointed out that the passage of the Natural Gas Act made "favored nation" clauses inoperative. Consequently, it concluded, a purchaser of gas would be required to pay for it in accordance with the contract rate which had been filed with the Federal Power Commission, regardless of the fact that other distributors had obtained gas at lower rates. *Mississippi Power & Light Co. v. Memphis Nat. Gas Co. 162 F2d 388.*

Other Important Rulings

THE provision of the Public Utility District Law of Washington giving a district the right to purchase "within or without its limits" electric current for sale and distribution "within or without its limits," and to construct, acquire, and maintain works, lines, and facilities for generating electric current "within or without its limits" for the purpose of furnishing the district and others "within or without its limits" with electric current, was construed by the supreme court of Washington to mean that the primary purpose of the district is to furnish the district and the inhabitants thereof with electric current, and that furnishing of current to any other person "within or without its limits" is an incidental purpose only. *State ex rel. Public Utility Dist. No. 1 of Skagit County v. Wylie (Weyerhaeuser Timber Co. Intervener) 182 P2d 706.*

A telephone company's application for authority to increase rates was approved by the Georgia commission, which in finding the rate base expressly disallowed going concern value. *Re Consolidated Telephone Co. (File No. 19324, Docket No. 8678-A).*

NOTE.—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports.*

PREPRINTS

OF CASES TO APPEAR IN

Public Utilities Reports

COMPRISING THE MORE IMPORTANT DECISIONS, ORDERS, AND RECOMMENDATIONS OF COURTS AND COMMISSIONS

VOLUME 70 PUR NS NUMBER 5

Points of Special Interest

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TITLES

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Re Interstate Natural Gas Company, Incorporated

September 24, 1947

PROCEEDING *relating to agreement filed by natural gas company and containing rate schedule providing for change to reflect additional taxes; schedule permitted to become effective subject to condition.*

Rates, § 243 — Notice of change — Tax clause in schedule.

A rate schedule, filed by a natural gas company, containing a provision for changes to reflect increased and additional taxes should be allowed to take effect on condition that the company, before changing any of the rates, shall file such changes, as required by the Natural Gas Act and the Commission's regulations, since the act requires that notice of any rate change be given to the Commission and to the public, unless otherwise ordered by the Commission.

By the COMMISSION: It appears to the Commission that: (a) Interstate Natural Gas Company, Inc., hereinafter referred to as "Interstate," a natural gas company within the meaning of the Natural Gas Act, on August 25, 1947, filed with the Commission an agreement dated August 2, 1947, entered into with Mississippi Power & Light Company, as a supplement to its Rate Schedule FPC No. 20, which supplement was designated by the Commission as Interstate's Supplement No. 5 to Rate Schedule FPC No. 20, and requested that said supplement be allowed to take effect as of August 2, 1947.

(b) The aforesaid Supplement No. 5, among other things, contains the following provision not heretofore set forth in the effective rate schedules of Interstate covering the delivery and sale of natural gas to Mississippi Light & Power Company, to wit:

"3. The prices provided for in Article 2 hereof shall be subject to the adjustment provided for in this Article 3. Any sales, transactions, occupation, service, production, severance, gathering, transmission, export, or excise tax assessment or fee hereafter levied, assessed or fixed by the United States or any state or other governmental authority and taxes of a similar nature or equivalent in effect (not including income, excess profits, capital stock, franchise, or general property taxes) in addition to or greater than those being levied, assessed, or fixed at the date of this agreement, if any, in respect of or applicable to the natural gas to be delivered by the vendor to the vendee hereunder and which vendor may be liable for during any month or quar-

terly calendar year period either directly or indirectly through any obligation to reimburse others, are hereinafter collectively referred to as an "Additional tax." Such additional tax shall be computed on the basis of the weighted average of all such additional taxes for which vendor is liable. It is expressly understood and agreed between the parties that there shall be added to all the prices provided for in Article 2 hereof so long as the additional tax shall be in effect an amount per thousand cubic feet sufficient to reimburse the vendor for such additional tax. In the event all or any part of such liability of the vendor is not determined or not determinable within thirty days after the end of any calendar month or quarterly calendar year period, then such additional amount per thousand cubic feet required in respect of such liability not determined or determinable shall be set forth for all such months in any calendar year in a statement to be rendered by the vendor to vendee by April 1st of the following year and the vendee shall pay the amount due pursuant to such statement on or before May 1st of such following year; provided, however, should vendor intend to collect such tax which is not determinable by the end of any month, it shall notify vendee of the existence of such tax and shall give vendee sufficient information to enable vendee to estimate as accurately as possible the effect of such tax."

The Commission finds that:

(1) The aforesaid provision of Interstate Rate Schedule would permit changes in the rates and charges specified therein to be demanded, observed, charged, and collected by reflecting increased and additional taxes, assessment, and fees levied, other than income, excess profits, capital stock, franchise and general property taxes, without notice thereof to the Commission and the public.

(2) The Natural Gas Act requires that notice be given to the Commission and to the public, unless otherwise ordered by the Commission, of any change to be made in the rates and charges as filed by a natural gas company.

(3) The named rates and charges set forth in the aforesaid Supplement No. 5 are the same as contained in Interstate's effective rate schedule covering the delivery and sale of natural gas to Mississippi Power & Light Company and may be accepted for filing to be effective as of August 2, 1947, provided that any proposed changes in the rates and charges as provided in the aforesaid provision 3 of said supplement are filed and notice given as required by § 4(d) of the Natural Gas Act, 15 USCA § 717c(d), and § 154.-3C of the Commission's regulations under the Natural Gas Act.

The Commission *orders* that:

(A) The rate schedule referred to in paragraph (a) above, be and it hereby is allowed to take effect as of August 2, 1947, provided, however, that Interstate, before changing any of the named rates and charges, as provided in the aforesaid provision numbered 3 of the said rate schedule, to be demanded, charged, and collected from Mississippi Power & Light Company shall file such changes as required by the Natural Gas Act and the Commission's regulations thereunder.

(B) Nothing contained in this order shall be construed as a waiver of

the requirements of § 7 of the Natural Gas Act, 15 USCA § 717f, as amended; nor shall it be construed as constituting approval by this Commission of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such service or rate provided for in the above-designated rate schedule, nor shall this order be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate.

(C) This order is without prejudice to any findings or orders which have been or may hereafter be made by this Commission in any proceeding now pending or hereafter instituted by or against Interstate.

NEW JERSEY BOARD OF PUBLIC UTILITY COMMISSIONERS

Michael J. Clethero

v.

New Jersey Bell Telephone Company

Docket No. 3294
August 19, 1947

COMPLAINT *by telephone subscriber against discontinuance of service at request of police; discontinuance held justified but restoration ordered.*

Service, § 134 — Telephone discontinuance — Police request.

1. A telephone company is justified in discontinuing service to a subscriber at the request of police, based upon a belief that the premises are used for illegal gambling, where a company regulation provides that service may be terminated upon objection to their continuance made by or on behalf of any governmental authority, even though the telephone company does not show an actual use of the telephone for the improper purpose, p. 132.

Service, § 134 — Restoration of telephones — Discontinuance at police request — Suspicion of gambling use.

2. A telephone company which, in accordance with its regulations, has discontinued service to a subscriber upon request by the police should restore service when the police lack sufficient evidence against the subscriber to arrest him for illegal use for gambling purposes or to justify affirmative action against him or the premises, p. 133.

APPEARANCES: William A. Moore, for Michael J. Clethero; A. J. Bittig, for New Jersey Bell Telephone Company.

By the COMMISSION: A petition was filed by Michael J. Clethero, as complainant, alleging that the respondent, New Jersey Bell Telephone Com-

pany, without proper justification, discontinued telephone service at 18 East Front street, Trenton, New Jersey, where complainant conducts a store. Complainant prays for an order directing restoration of service.

[1] Respondent admits that it discontinued service to complainant's premises on February 7, 1947, on receipt of a letter from the chief of police of Trenton, New Jersey, dated February 6, 1947, which letter, in part, reads as follows:

"I have reasonable cause to believe that the telephone service given by your company to the following persons are being used for illegal purposes, namely, 'bookmaking,' and I am requesting the telephone company to discontinue this service."

Complainant's name, address, and telephone number, listed as "Joseph Clethero, 18 East Front street, 'Phone 3-9811 and 6650," then followed with the names and addresses of others. The letter further stated that "The foundation of my belief is based on reports submitted to me by Patrolmen Haines and Wistischien."

Respondent's action in discontinuing service was based upon a regulation appearing in its General Exchange Tariff, stating that ". . . facilities and services may be terminated . . . Upon objection to their continuance made by or on behalf of any governmental authority."

The evidence adduced at hearing discloses that complainant has been engaged for about seven years in the display and sale of jewelry and club and casino equipment at the East Front street address. There are two rooms in the rear of the store portion of the premises, the room nearest the store being used as an office, and the rear room being used at times for sleeping purposes, having in it some sleeping room equipment, a clothes closet, and boxes of merchandise. Each of these rooms was equipped with a separate telephone. The complainant described one telephone as the store 'phone and the other as his apartment 'phone. Although the testimony indicates that complainant slept in the rear room on occasion, it is clear that on the date telephone service was discontinued at the Front street address, and for some time prior thereto, complainant had maintained his actual residence elsewhere.

Respondent produced as witnesses three members of the Trenton Police department, including Officers Haines and Wistischien. These witnesses testified that during nearly the entire period of time that complainant maintained his store at 18 East Front street, Trenton, New Jersey, representatives of the police department had kept the premises under close surveillance, at times entering complainant's store several times a day. This police activity was apparently due to what one policeman described as "information and belief" that race horse bets were being placed by complainant as far back as nine years ago, that is, even before complainant occupied the East Front street premises, and to what another policeman characterized as the complainant's reputation, in the immediate vicinity of his place of business, as being engaged in bookmaking.

The policemen testified that from time to time they had seen individuals reputed to be gamblers, enter complainant's store, but at no time did they observe these persons engaged in

any illegal activities in complainant's premises. The witnesses further stated that on several occasions, while in complainant's store, they had overheard complainant in the rear of his premises, using one of the two telephones "talking about giving the name of horses" and "giving the prices, the names of horses," and using other language which indicated to the policemen an interest on the part of complainant in bets and horses. The police did not know to whom complainant was talking at the time. One policeman testified that he reported the incidents to his superiors but did not arrest the complainant because he felt he had insufficient evidence. It was further testified to that one of the policemen mentioned these telephone conversations to the complainant and that the latter stated that if he was taking bets, it was up to the police to obtain the evidence. Another police witness testified that complainant had admitted to him that he was engaged in bookmaking.

The police witnesses further testified that at no time during the years that complainant's premises were kept under scrutiny, did they find any evidence of bookmaking in the premises, such as slips, racing forms, or other paraphernalia of the enterprise; nor did they observe any direct evidence of complainant being engaged in bookmaking sufficient in their opinion to justify his arrest; nor did they take any affirmative action directed against complainant or his premises, as an arrest or raid.

Complainant, on his part, denied that he had used the telephones for any illegal purposes and further denied the alleged admission to and conversation with the police officers alluded to hereinbefore.

At the conclusion of the hearing, counsel for respondent, moved to dismiss the complaint on several grounds, particularly urging, under the evidence, that respondent's action in discontinuing service was based on reasonable grounds and, therefore, should be upheld. Inasmuch as the matters urged in support of the motion are, in fact, those which the Board must consider in passing upon the basic issues herein involved, separate discussion of the motion is not considered necessary.

The reasonableness of the tariff regulation under which the respondent acted in this case has been upheld by this Board in a number of decisions, namely, Ganek v. New Jersey Bell Teleph. Co. (NJ 1944) PUC Docket No. 1586, 17 NJ PUCR 494, 57 PUR NS 146; Slapkowski v. New Jersey Bell Teleph. Co. (1947) PUC Docket No. 2841, 67 PUR NS 33; and Matalena v. New Jersey Bell Teleph. Co. (1947) PUC Docket No. 3054.

The Board is of the opinion that the company's discontinuance of service to the complainant was justified under its regulations and the decisions cited. As the Board held in the Ganek Case, the telephone company is not "under duty to show an actual use of the telephone for the improper purpose before discontinuing the same."

[2] The remaining question, therefore, is whether, in view of the record, respondent is now entitled to restoration of service. In both the Ganek and Slapkowski Cases cited *supra*, and urged by respondent in support of its position, the respective police departments were apparently in possession

of sufficient evidence against the alleged violator to justify positive and affirmative action on their part directed against the alleged violator, in addition to the action taken in requesting the telephone company to discontinue service. In the present case, however, the Board must take cognizance of the fact that the police witnesses produced by the respondent, who include the same witnesses mentioned by the chief of police in his letter of February 6, 1947, to respondent as the basis for the belief that bookmaking was being conducted in complainant's premises, testified that at no time did they have sufficient evidence against the complainant to arrest him for bookmaking at the Front street premises, or to justify any affirmative action directed against the complainant or the premises, other than to request discontinuance of telephone service. The Board, therefore, is of the opinion that the record does not warrant further deprivation to complainant of telephone service.

Accordingly, respondent's motion for dismissal is denied, and it is *ordered* that respondent forthwith restore the telephone service previously referred to herein as the "store 'phone," as it was on and prior to February 7, 1947. Since the evidence indicates that the complainant is no longer using the rear room for living quarters, this order does not extend to restoration of the service hereinbefore referred to as the "apartment 'phone."

MISSOURI PUBLIC SERVICE COMMISSION

Simon Partnoy Doing Business As Harmony Publishing Company

v.

Southwestern Bell Telephone Company

Case No. 11,031
June 13, 1947

COMPLAINT *by telephone subscriber against service discontinuance at the request of civil authorities; dismissed.*

Commissions, § 11 — Authority — Implied powers.

1. The Commission is vested with all powers necessary and proper to carry out fully and effectively the duties expressly delegated to it by the legislature, p. 144.

Commissions, § 2 — Powers — Relation to state police power.

2. The authority of the Commission has its basis in the police power of the state, which may never be abridged, p. 144.

Service, § 162 — Validity of regulation — Telephones — Discontinuance — Unlawful use.

3. A telephone company regulation authorizing the company "to discontinue service upon notice from any official charged with the enforcement of the law stating that such service is being used as an instrumentality to violate the law" has the same force and effect as law and is binding upon the utility, the public, and the Commission when no objection has been made to the regulation within due time after its filing with the Commission, p. 144.

Service, § 162 — Regulations — Unlawful use of service — State policy.

4. A regulation of a telephone company authorizing the discontinuance of service on notice from authorities of unlawful use, when filed with the Commission, becomes a pronouncement of the public policy of the state, acting through the Public Service Commission as an arm of the legislature in the field of utility regulation, p. 144.

Service, § 134 — Discontinuance — Validity of regulation — Notice of unlawful use.

5. A telephone company regulation which authorizes service discontinuance on notice from any official charged with enforcement of the law that the service is being used to violate the law is neither unreasonable, arbitrary, unjust, nor violative of the constitutional requirement of due process, but is simply a practical solution to the company dilemma of continuing service under threat of criminal prosecution as an accessory or discontinuing service under the threat of civil liability for wrongful discontinuance if the accusations of the officials should prove to be unjust, p. 145.

Service, § 134 — Unlawful use — Telephone discontinuance — Reliance on notice of unlawful use.

6. A telephone company has the right to rely on notice from law enforcement officials as reasonable cause to believe that a service is being used unlawfully, p. 145.

Discrimination, § 229 — Telephone service — Discontinuance for unlawful use — Company regulation.

7. A regulation authorizing a telephone company to discontinue service on receiving notice from authorities that the service is being used in an unlawful manner is not discriminatory, as it operates uniformly with respect to all members of the public availing themselves of the company's service, p. 146.

Service, § 134 — Discontinuance — Unlawful use of telephones — Absence of company regulation.

8. Even in the absence of a rule authorizing a telephone company to discontinue a service being used to violate the law, a subscriber's service may be discontinued where it is being used in an unlawful manner, p. 146.

Service, § 2 — Constitutional due process — Discontinuance — Telephone regulation.

9. A telephone regulation authorizing the company to discontinue service on notice from authorities of unlawful use cannot be held to deprive a subscriber of his property without due process of law unless the action of the company in cutting off the service under the rule also operates to leave the subscriber without recourse in the event such service has been terminated without justifiable cause, p. 146.

Service, § 2 — Constitutional due process — Discontinuance under company regulation — Unlawful use of telephones.

10. A telephone subscriber whose service has been discontinued for unlawful use has not been deprived of property without due process of law where he still has an opportunity to show that the notice given by the state officials to the company on which the company relied in disconnecting service was unsupported by facts and where the Commission, in the exercise of its control over public utilities, may order that the service be continued and where any finding of the Commission is subject to judicial review, p. 146.

Service, § 117 — Nature of right to telephone service — Police power.

11. The right of a subscriber to telephone service is not an inherent right but is due solely to the fact that in the exercise of its police power the state has previously seen fit, under provisions of the Public Service Commission Act, to require the telephone company to serve the public without undue or unreasonable preference, p. 146.

Service, § 17 — State authority — Discontinuance — Conditions.

12. The state, having the right to compel a telephone company to render service, has the right to enact conditions under which service may be terminated, p. 147.

Service, § 134 — Unlawful use — Telephone — Racetrack news.

13. A telephone service is being used as an instrumentality to violate the law, within the meaning of a company's rule authorizing discontinuance of service upon notice from civil authorities of unlawful use, where the subscriber knows that his telephonic news service is being used for bookmaking and that the service has no other use than to aid and abet the carrying out of the unlawful business of bookmaking, p. 148.

Service, § 134 — Discontinuance for unlawful use — Company authority apart from regulation.

14. A telephone company may with propriety cut off a subscriber's service when it discovers that it is being used in the furtherance of an unlawful enterprise, whether or not the company has a rule permitting such action, p. 149.

Service, § 134 — Telephone — Discontinuance for unlawful use — Due process.

15. The fact that the action of a telephone company in discontinuing telephone service, under a company rule permitting such action upon notice from civil authorities of unlawful use, opens the door for the filing of a complaint with the Commission to force the company to continue service, serves the requirements of due process, p. 149.

Service, § 134 — Discontinuance — Suspected unlawful use of telephones — Right to rely on notice from authority.

Statement that a telephone company which has received notice from both the governor and attorney general that a telephone service is being used to violate the law should have the right to discontinue service without deciding the ultimate fact of whether or not the service is being used as an instrumentality to violate the law, p. 145.

By the COMMISSION: Simon Partnoy (hereafter called complainant), an individual, doing business under the fictitious name of Harmony Pub-

lishing Company, on March 18, 1947, filed with the Commission his complaint charging that Southwestern Bell Telephone Company (hereafter called Company) intended to and would discontinue his telephone service because it had been ordered by the Honorable Phil M. Donnelly, governor of the state of Missouri, and the Honorable J. E. Taylor, attorney general of the state of Missouri, to discontinue the telephone service to complainant's place of business in the Columbia Bank building in Kansas City, Missouri, for the reason that such telephone service was being used as an instrumentality to violate the laws of the state of Missouri. Complainant further set out in his complaint that he was engaged in the lawful business of disseminating news of horse races and other sporting events by means of telephone equipment furnished by the Company. Complainant further charged that he was not violating any law and that he was paying the required rates for the telephone service he was receiving, and was willing to continue to pay the required rates and asked the Commission to make an order upon the Company, requiring it to continue furnishing the telephonic service to complainant.

On March 18, 1947, the Commission issued its order directed to the Company, ordering it to satisfy the complaint or to answer within ten days. Thereafter, on March 25, 1947, the Honorable J. E. Taylor, attorney general, filed a motion for leave of the state of Missouri to intervene and to be made a party to the cause.

On March 29, 1947, the Company filed its answer, alleging that it had on file with the Commission and in effect a valid and binding tariff rule and regulation which, in part, reads as follows:

Termination of Contracts

. . . . . .

B. The telephone company shall be authorized to discontinue service upon notice from any official charged with the enforcement of the law stating that such service is being used as an instrumentality to violate the law.

The answer further alleged that on March 11, 1947, the Company received from the governor and the attorney general of the state of Missouri a telegram notifying it that the telephone service being furnished complainant was being used as an instrumentality to violate the law, and requested the discontinuance of such service; that upon receipt of such notice the Company proceeded to discontinue complainant's telephone service but was restrained therefrom by a temporary restraining order, issued by the circuit court of Jackson county in an action filed therein by complainant, and that after hearing that court issued a temporary injunction pending a hearing and decision by this Commission.

On April 3, 1947, complainant filed a motion to dismiss the motion of the state of Missouri to intervene. Oral arguments of counsel were heard upon complainant's said motion to dismiss and upon the state's petition to intervene, and written briefs were filed by counsel for both parties. After due consideration, the Commission, on April 11, 1947, overruled complainant's motion to dismiss and sustained the motion to intervene and granted leave to the attorney general to file answer on or before April 19, 1947;

and in the same order set the cause for hearing on Tuesday, April 29, 1947. Within the time allowed, the attorney general filed answer to the complaint on behalf of the state of Missouri, charging in substance that the aforementioned rule and regulation of the Company for discontinuance of service was reasonable and necessary to the conduct of the telephone business and that the governor and attorney general had joined in a telegram to the Company, advising that the service to complainant was being used as an instrumentality to violate the law and requested discontinuance of the service; that the telephone service of complainant was used solely for the purpose of broadcasting information concerning horse races, which information was used exclusively by bookmakers for the purpose of registering bets upon horse races in violation of the laws of the state of Missouri; that complainant had no customers for this service other than bookmakers, and that the only purpose for the furnishing of the information given out by complainant over the telephones was to aid and assist bookmakers in recording bets and wagers upon horse races in violation of the law.

On April 22, 1947, complainant filed first amended complaint, in all respects the same as his original complaint, except that added thereto was a charge that the discontinuance of telephone service to complainant under the facts charged was without warrant of law, and in violation of complainant's rights under the Constitution of the United States and the Constitution of the state of Missouri. Upon the issues made by the aforementioned pleadings, hearing was held before the Commission at its hearing room in Jefferson City, Missouri, on the 29th and 30th days of April, 1947. At this hearing complainant appeared in person and by his attorneys, Harry A. Terte, Julian M. Levitt, Edward Hieby, Roy W. Rucker, all of Kansas City, Missouri, and Louis H. Cook of Jefferson City, Missouri. The Company appeared by its attorneys, John Mohler of St. Louis, Missouri, and Arthur S. Brewster of Kansas City, Missouri. The state of Missouri appeared by J. E. Taylor, Attorney General, Art O'Keefe and Pershing Wilson, Assistant Attorneys General.

The evidence produced to support the complaint was the testimony of complainant himself and a number of metropolitan newspapers that were introduced in evidence as exhibits. The complainant testified in substance to all of the facts set out in his complaint. He further testified that for the news service which he gave over the telephone facilities of the Company, he received from $50 to $100 per customer per week; that he had nine customers; that one paid $50 per week, some paid $60, some paid $75 and some paid $100 per week; that he used, in all, ten telephone lines; that the reason he had ten telephone lines but only nine customers, was because he always held one line open so that customers could call in and obtain service when they wanted it.

It was brought out on cross-examination that complainant received the sports news by Morse code telegraph ticker from Trans-American News Service in Chicago; that complainant's telegraph operator posted the information received on a bulletin board and from there it was read off by an-

other operator over the telephones when a customer called in and asked for the service. If several customers were receiving service at the same time, the telephone transmitter connected with each line was placed in a box or on a rack, and the information was broadcast to these transmitters by loud-speaker; that some customers would call in for certain information which would be given them and then would hang up; that others would ask to hold on and sometimes as many as six telephone lines were receiving the broadcast from the loud-speaker at the same time; that the first news was received and given out over the telephones about 11 A. M. of each day except Sunday. The principal news handled was that of horse racing and consisted of: First, the lineup for the day's races at the various race tracks throughout the country, the scratches, the jockeys, the condition of the track, and the betting odds. As the time for the various races approaches, the changes in odds are given, and this is followed by a description of the running of the race, giving the positions of the horses, the winners, the running time, and the mutuels.

In addition to this racing news, complainant also gives the news of major league baseball games by innings, football and basketball games by periods when in season, and other major sports events. It also published and distributed a sport sheet known as "Sport Ray." He has been connected with this kind of business for about twenty-three years, has been in business at his present location and under his present name for about four years. From 1940 up to the time he established his present location, he had his business at a place known as "Green Hills" in Platte county, several miles north of Kansas City. Prior to that he was in business at Kansas City, Kansas, for awhile, and prior to that in the New York Life building in Kansas City, Missouri, for a number of years. He moved from Kansas City, Kansas, back to Missouri after his Western Union Telegraph Company service had been cut off because the Federal government charged that the service was being used to violate the law. Following this, complainant filed an injunction suit against the Western Union Telegraph Company in the United States district court at Kansas City, and the court denied the injunction and dismissed the petition.

Complainant further testified that, in addition to this news service by telephone which he furnished in Kansas City, he also furnished a similar news service by teletypewriter to a customer in St. Joseph, Missouri, another in Wichita, Kansas, another in Omaha, Nebraska, another in Lincoln, Nebraska, another in Sioux City, Iowa, another in Council Bluffs, Iowa, and another in Tulsa, Oklahoma. Complainant's books pertaining to his business, which he produced at the request of the attorney general, showed that for these various teletypewriter services, he received anywhere from $100 per week from the St. Joseph customer, to as high as $450 per week from the customer in Omaha, Nebraska. He further testified that he had the exclusive agency for this news service in western Missouri and the states of Iowa, Kansas, Nebraska, and Oklahoma, and that his service was the only service of that kind obtainable in

all that territory. The books also showed the names of complainant's customers in Kansas City and in each of the other cities mentioned. Those in Kansas City who received the news service by telephone were listed on the books by last name followed by an initial, such as "Looney, R," "Doyle, J.," "Green, B." etc. Complainant claimed that he did not know any of his customers personally nor their addresses; that they usually contacted him by telephone if they wanted his service, a few came to the office, and, when the price was agreed upon and payment was made in advance, the customer was assigned a number such as 1, 2, 50, etc., and as long as he continued to pay for this service weekly in advance, he was given the service whenever he called in and requested same; that when any customer wanted service, he would call one of the telephone numbers of complainant's telephones and give to the operator in complainant's office the number which complainant had assigned to that customer, and then state what service he wanted; that is, whether he wanted specific information only or wished to be put on the rack for a period of time to receive the broadcast of the news over the loudspeaker.

The Company assigned to complainant's telephones numbers as follows: Grand 2750 to 2756, inclusive; Grand 2852 and 2853, and Grand 2879. If Grand 2750 is dialed, then any of the following successive numbers where the line is not in use will automatically be called. Likewise, if Grand 2852 is dialed and that line is busy, then 2853 will automatically be rung.

Complainant further testified that the advance payments for the service to his Kansas City customers were made by check delivered to his office through the United States mails; that the customer in each instance put the number assigned to him upon his remittance check and also on the outside of the envelope, and upon receipt of the envelope containing the check, complainant looked at the number on the envelope and on the check to determine who was making the payment, and then sent the checks to the bank; that he paid no attention to the signatures on the checks, did not look to see what the signature might be, but only looked for the number; that he did not know who signed any of the remittance checks.

Complainant also stated that he had had substantially the same customers for some time; that occasionally a customer would discontinue the service or would quit paying in advance and complainant would cut off the service, but that he usually had the full nine customers and on one occasion he had had ten customers; but that when a customer dropped off or quit the service, another customer would be put on; that he did not have any waiting list of customers, made no efforts to advertise or sell this service, but that when there was a vacancy on any line, somebody would just call in and ask for the service and would be assigned a number and given the service as requested. No explanation whatever was offered as to how these prospective customers could find out that there was a vacancy. Complainant stated that he had no connection with bookmaking places, that no bets were taken or recorded at his place of business, and that in all of his twenty-three or twenty-four years in business he had

only been in one bookmaking place, and that was a place in Kansas City about 1937 or 1938, and that this place, when he was in there, was getting information such as complainant furnishes his customers.

When asked what kind of a business other than a bookmaking establishment would want complainant's service, he said, "I don't know." He was then confronted with the following questions and made the following answers:

Mr. Taylor: You don't know of any, is that your answer?

A. I just don't know whether it could be used in a bookie joint or not.

Q. I will ask you if I didn't ask you this question and you didn't make this answer at the hearing before Judge Cook: (Reading) "Can you tell me any kind of business other than a bookie business that would want this service?" Answer: "No."

A. I might have made that answer, but I had just come from the hospital where my wife was operated on just before the testimony there.

Q. You were confused?

A. Very confused. My wife was in surgery for an hour and a half that same morning.

Q. But you wouldn't say you didn't make that answer?

A. If the record shows that, I probably did, but I didn't mean it that way.

Q. Well, can you tell me again—you are not confused now, are you, Mr. Partnoy?

A. I don't know what it could be used for.

Q. You don't know what it could be used for?

A. No, sir.

In connection with complainant's testimony as to his one venture into a bookmaking establishment, and reflecting upon his knowledge of the use made of his news service, he was asked the following queestions and made the following answers:

Q. You testified at the hearing before Judge Cook recently?

A. Yes, sir.

Q. I will ask you if I didn't ask you this question and you made this answer: (Reading) "So contrary to anything that may be alleged in the petition, you did know that the service which you were working with was being used by book joints at that time?" Answer: "That is right." I will ask you if that question wasn't asked and you didn't make that answer.

A. Maybe I made it, but I didn't mean to make it in that manner.

Complainant denied any knowledge of raids by law enforcement officers upon bookmaking places and denied any knowledge that such raids might affect his business or cause him to lose customers. He denied any knowledge whatever of the busines of any of his customers, but in that connection he was asked the following questions and made the following answers:

Q. I will ask you if at the hearing before Judge Cook I didn't ask you this question: "Would you tell the court that in the twenty-four years, or however many years it has been, that you don't know a single customer at that time or what business they were engaged in?," and you made the following answer: "I think I told them in 1938 I had went to places where they had this rapid information, they

were bookmakers." Did you make that answer?

A. I might have made it, yes, I probably did, but I didn't mean it that way.

Following complainant's testimony, a number of metropolitan newspapers published in some of the major cities throughout the United States were offered in evidence, for the stated purpose of showing that such newspapers carried the same news and information as was given by complainant over the telephones. With this showing, complainant rested.

The Company called as a witness H. D. Boyles, who testified that he is general commercial engineer for the Southwestern Bell Telephone Company, and that a part of his duties is the designing of rate schedules and rules and regulations to be filed in the tariffs filed with this Commission and the Federal Communications Commission. He further stated that the rule involved in this case is a 1943 rewrite of a previous rule dealing with the same subject, which has been in effect since 1919; that this rule or a similar rule was deemed advisable by the Company to protect it against the possibility of criminal prosecution as an accessory for furnishing telephone service used to violate the law, and to protect the Company from civil liability should it comply with a request such as was made by the governor and attorney general in this case.

Following this testimony, the Company offered in evidence the telegram from the governor and attorney general and rested its case.

The attorney general called as his first witness one James B. Smith, who testified that he was employed by complainant; that Partnoy had four employees; that it was the duty of the witness to answer the telephones and give the customers the desired information, and that if more calls came in than he could answer in the usual manner for use of the telephone, he put the telephones on the rack or in the box, and broadcast the news to them over a loud-speaker; that when a customer called in for service he would give the number that had been assigned to him and ask for what he wanted. Generally, this witness described the conduct and character of the business about the same as it was described by complainant.

Next followed the testimony of ten law enforcement officers, either members of the Kansas City police force or the state highway patrol, who testified about various instances when bookmaking establishments in Kansas City, North Kansas City, and Green Hills, in Platte county, were visited and later raided, or raided without a previous visit. All this evidence showed beyond question that the unlawful business of taking bets and making books upon horse races was being carried on at these various places, and that these places were receiving the news and information concerning horse races and betting thereon by use of telephone equipment of the telephone company, and that the information being used and received at these various bookmaking places was information of the same character and import as that given by complainant over the telephones.

In some instances the telephone instrument in the bookmaking establishment had hooked into it earphones.

In other instances connections were made with a loud-speaker system. Various pieces of evidence of bookmaking on horse races were found in each of the raids, such as pin-up sheets, recordings of bets and various other equipment used generally by bookmakers; even sizable sums of money. These raids were at various times from 1942 down to as late as March of this year. Members of the state highway patrol testified that on two different occasions they visited at Green Hills, in Platte county, and saw the bookmaking establishment there in full operation, with a number of people present as customers, placing bets on horse races at various windows for that purpose, and receiving the broadcast of the news of races being run at various race tracks, and bets being paid to various of the customers after the races had been run. There were many other details of these raids shown in the evidence that are not discussed because we think it sufficient to say that there was ample evidence of unlawful activity, and various of these raids resulted in arrests and convictions in municipal court for gambling.

At one bookmaking establishment in Kansas City, where a raid was conducted, there was found in the drawer of a desk numerous tickets showing bets on various horse races, and also a card on which was listed ten telephone numbers, three of which were the numbers of telephones used by complainant.

The attorney general's last witness was the manager of the business office of the Company in Kansas City, who testified to the numbers of the telephones used by complainant, and that of all the telephones used by complainant only one was listed in the telephone directory, that being Grand 2750. If that number were dialed, it would automatically ring any of the phones of the number series of 2750 to 2756, inclusive, in the order of their numbers, if the lower numbered lines were busy. He further testified that the numbers of the telephones used by Partnoy, which were not listed in the directory, could not be obtained from the telephone company and would not be given out by the Company to anyone except upon compulsion by legal process.

All of the parties to this cause were granted leave to file written briefs and did file exhaustive and enlightening briefs, which have been a great aid to the Commission in determining the issues involved. As we view it, there are two questions presented for decision. The first question presented is the validity and reasonableness of the Company rule involved. The second question is the propriety of the application of the rule under the facts in this case. Other legal points have been raised by the parties but we believe that these will be disposed of as incidental to these two main questions.

Taking up first the validity and reasonableness of the rule, we look to the applicable Public Service Commission Laws (Mo Rev Stats 1939, Chap 35, Arts 1 and 5).

Section 5592, Art 1 of Chap 35, Rev Stats Mo 1939, dealing with the jurisdiction of the Commission over public utilities, provides in part as follows:

"Jurisdiction of Commission.—The jurisdiction, supervision, powers, and duties of the Public Service Commission herein created and established shall extend under this chapter: . . .

"6. To all telephone lines, as above defined, and all telegraph lines, as above defined, and to every telephone company, and to every telegraph company, so far as said telephone and telegraph lines are and lie, and so far as said telephone companies and said telegraph companies conduct and operate such line or lines, respectively, within this state. . . .

"9. To all public utility corporations and persons whatsoever subject to the provisions of this chapter as herein defined. And to such other and further extent, and to all such other and additional matters and things, and in such further respects as may herein appear, either expressly or impliedly."

[1] In addition to certain positive powers expressly conferred upon the Commission, it is also vested with all other powers necessary and proper to carry out fully and effectively the duties delegated to it. State ex rel. and to Use of Public Service Commission v. Padberg (1940) 346 Mo 1133, 145 SW2d 150.

[2] The authority of the Commission is referable to the police power of the state, which power may never be abridged. State ex rel. and to Use of Public Service Commission v. Blair (1940) 347 Mo 220, 146 SW2d 865.

[3] As an incident of the Commission's regulation of its business, and particularly due to the provisions of §§ 5664 and 5665, Art 5 of Chap 35, Rev Stats Mo 1939, dealing specifically with service, just and reasonable charges, unjust discrimination, unreasonable preference, and rate schedules, the Southwestern Bell Telephone Company on September 22, 1943, filed with the Commission, as one of its tariff provisions dealing with the termination of contracts, the rule or regulation heretofore mentioned as containing the following language:

The telephone company shall be authorized to discontinue service upon notice from any official charged with the enforcement of the law stating that such service is being used as an instrumentality to violate the law.

No objection having been made to said rule or regulation, within due time the same became entitled to be accorded the force and effect of law, binding upon the utility, the public, and the Public Service Commission. State ex rel. Western U. Teleg. Co. v. Public Service Commission (1924) 304 Mo 505, PUR1925A 610, 264 SW 669, 35 ALR 328; State ex rel. St. Louis County Gas Co. v. Public Service Commission (1926) 315 Mo 312, PUR1927A 187, 286 SW 84; Midland Realty Co. v. Kansas City Power & Light Co. (1937) 300 US 109, 81 L ed 540, 17 PUR NS 113, 57 S Ct 345.

[4] Such rule and regulation also became the pronouncement of the public policy of the state, acting through the Public Service Commission as an arm of the state legislature in the particular field of public utility regulation. State ex rel. and to the Use of Cirese v. Ridge (1940) 345 Mo 1096, 34 PUR NS 454, 138 SW2d 1012.

None of the parties, including the complainant, challenges the fundamental jurisdiction of the Commission to make rules and regulations respecting the control the Company and its relationship to the public as a regulated utility. However, the complainant urges that said rule is unreasonable, arbitrary, oppressive, and unjust, and faulty from its inception because it is

of such a nature as to deprive him of certain property rights without due process of law as guaranteed by both the Fourteenth Amendment to the Constitution of the United States and Art I, § 10, of the Constitution of the state of Missouri.

[5] In so far as the complainant's attack on said rule and regulation is concerned, we must rule against the complainant. Said rule operates to relieve the regulated Company from being placed in the dilemma of choosing either the course of continuing service under threat of criminal prosecution as an accessory, if the complainant is actually guilty of a crime, or discontinuing service under the threat of civil liability in the event the accusations are wrongfully made by the enforcement officers.

In the case of Tracy v. Southern Bell Teleph. & Teleg. Co. (1940) 38 PUR NS 527, 528, 37 F Supp 829, the court states:

"Although telephone companies, as public utilities, are required to furnish their facilities to the public indiscriminately so long as such facilities are used for lawful purposes, it is well settled that a telephone company may refuse, and cannot be compelled to furnish service which will be used, or which the telephone Company has reasonable cause to believe will be used, in furtherance of illegal enterprises. No one can be compelled to aid in an unlawful undertaking. The procuring and placing of wagers on horse races in the manner followed by the plaintiffs is unlawful in Florida. Plaintiffs cannot invoke the processes of a court of equity to restrain defendants from discontinuing a public service which the Telephone Company had probable cause or reasonable grounds to believe is being used in the maintenance and conduct of such illegal or immoral enterprise." (Citing numerous cases.)

[6] The Company is not a law enforcement agency and upon being advised by law enforcement officials that its service is being used as an instrumentality to violate the law, it appears only proper that it should have the right to rely on notice from such law enforcement officials as reasonable to believe its service is being improperly used. The rule in the instant case only operates to such effect. As will be noted, said rule does not make it mandatory that the Company terminate such service upon such notice. The rule still leaves the way open for the Company to continue service if it deems said law enforcement officials to be acting unreasonably and capriciously. In the instant case, we have the governor and attorney general of the state of Missouri notifying the Company that its service is being used to violate the law, with the result of the Company's terminating its service, pursuant to the established rule and regulation above mentioned. That the Company should have the right thus to proceed appears much more reasonable than to burden it with deciding the ultimate fact of whether or not said service is being used as an instrumentality to violate the law, and in the interim being confronted with a charge of criminal liability while continuing service or other wise discontinuing service under threat of civil liability. Since the Company is a public utility and strictly regulated as such as to all its operations affecting service, it appears reasonable and in the public interest that it be afforded

that measure of protection which the rule and regulation affords.

[7–10] Obviously, said rule is not discriminatory as it operates uniformly with respect to all members of the public availing themselves of the company's service. Unless said rule itself is invalid every subscriber contracts for his service upon condition that said service may be cut off under certain circumstances and with actual or constructive knowledge that the right to such service is not an absolute and unconditional one. Even in the absence of such rule there appears no doubt as to the right of the Company to terminate its service, if said service is being used as an instrumentality to violate the law, and even in the absence of such rule the right of any subscriber to service is always conditional. Hamilton v. Western U. Teleg. Co. (1940) 36 PUR NS 38, 34 F Supp 928. Said rule in itself cannot be held to deprive the complainant of his property, i.e., the right to telephone service without due process of law, unless the action of the Company in cutting off complainant's service under said rule also operates to leave the complainant without recourse in the event said service has been terminated without justifiable cause. Thus, in the instant case, the complainant was afforded the opportunity to show that the notice given by the governor and attorney general to the company was unsupported by fact, and the Commission in the exercise of its control over the Company is empowered to order said service restored, or to be more exact, order that said service be continued since the complainant has already invoked legal process to enjoin its termination, despite his argument that said rule denies him due process of law. The further situation exists that any finding of this Commission is also subject to further review by the courts and thus said rule and regulation in no manner denies the complainant a full and adequate remedy before the courts and due proces of law is preserved. As was stated in St. Louis v. Missouri P. R. Co. (1919) 278 Mo 205, 211 SW 671:

"All that is meant, in the abstract, by due process of law, despite the numerous definitions of same, is that every citizen shall hold his life, liberty, property, and immunities under the protection of the general law which governs society, and in the concrete, that in a contest in regard to these rights, he will be accorded the opportunity to contest the propriety of each step in the action sought to be taken against him. The doctrine thus clearly enunciated, found its most unequivocal utterance in the Dartmouth College Case (1819) 4 Wheat 518, 4 L ed 629, which has been frequently affirmed."

[11] Since said rule in itself in no wise operates to deny subscribers the right to test its application to their particular use of the telephone service in the event the right to such use is challenged by law enforcement officials, one remaining question as to its validity might turn on the point of said rule and regulation being such as can be lawfully enacted under the state's proper police power, as an encroachment upon the private right of its citizens to exercise exclusive dominion over their property and contract freely about their affairs. It appears to be somewhat an anomaly that any right to the service, which

the complainant now maintains is being denied him by reason of the rule and regulation in force, only exists as a matter of right in the first instance by virtue of the state's exercise of its police power in assuming to regulate the Company as a public utility. In other words, the very service which the complainant now insists is due him as a matter of inherent right, is not an inherent right at all, but is due solely to the fact that in the exercise of its police power the state has previously seen fit, under provisions of the Public Service Commission Act, to require the Company to serve the public without undue or unreasonable preference.

The right of the state, in the exercise of its police power to compel a public utility to serve the public generally and to operate its business subject to reasonable rules and regulations, is now so well established under the law of the land that citations of authority to such effect would be merely surplusage. Without regulation, no obligation could be imposed upon the Company to furnish the complainant any service. Being under regulation and thereby required to render its service to the public under such reasonable rules and regulations for the conduct of its business as are not in conflict with any duty or liability imposed upon it by law, the Company has filed the rule in question as a measure of self-protection in the conduct of its business. It may very well be argued that this rule is a wholesome one because it operates as a deterrent to criminal activity, but whatever merit there may be in the point it should be noted that we are not sustaining the rule upon that restricted basis.

[12] As so filed and approved, said rule and regulation has the force and effect of law and the same status as if promulgated by this Commission in the first instance. Having the right to compel the Company to render service, it clearly follows that the state has the right to enact conditions under which such service may be terminated. In Nebbia v. New York (1934) 291 US 502, 78 L ed 940, 950, 2 PUR NS 337, 345, 54 S Ct 505, 89 ALR 1469, wherein the court exhaustively discusses many examples of the proper broad exercise of police power, the court states:

"The reports of our decisions abound with cases in which the citizen, individual, or corporate, has vainly invoked the Fourteenth Amendment in resistance to necessary and appropriate exertion of the police power.

"The court has repeatedly sustained curtailment of enjoyment of private property, in the public interest."

This Commission, under all the facts to be considered and the law applicable thereto, can see no cause for now determining that the rule and regulation in question is arbitrary, capricious, unreasonable, and unjust, or that the same is contrary to either the Federal or state Constitution. In seeking to have this Commission disapprove and abrogate the above-quoted rule, it might also be pointed out that complainant introduced no evidence sufficient to sustain the burden of proof cast upon him by virtue of the provisions of §§ 5702 and 5703, Rev Stats Mo 1939, State ex rel. Kennedy v. Public Service Commission (Mo Sup Ct 1931) PUR1932B 504, 42 SW2d 349. Any issues regarding the reasonableness and validity of said rule

and regulation must be ruled against the complainant and in favor of the intervening state of Missouri and defendant Company.

Having concluded that the rule in question is a valid and reasonable rule, we now come to the consideration of the question of the propriety of the application of the rule under the facts in this case, and find several factors that must be considered.

[13] Horse racing in the state of Missouri is not unlawful; neither is it unlawful to disseminate news of horse racing, but bookmaking and registering bets upon horse races is unlawful and is made a felony by each of two different enactments of the legislature. Missouri Rev Stats 1939, §§ 4673 and 4674. This we pointed out in Pioneer News Service v. Southwestern Bell Teleph. Co. (1945) 61 PUR NS 47.

If we were to believe complainant's testimony in its entirety, we would be compelled to declare his business lawful, but we are not so gullible as to believe that a business of this kind conducted for profit could or would be conducted in the manner described by complainant, with no knowledge of his customers nor the uses which they were making of the service. We think the evidence clearly establishes that the bookmakers in Kansas City were using the telephonic news service of complainant as a necessary adjunct to their unlawful business. We can understand how a loud-speaker broadcast of the changing betting odds immediately preceding the running of a horse race and a description of the race, from the time the horses leave the starting pens until they cross the finish line, would add to the thrill and stimulate betting, and at the same time give the information that is essential to registering and paying bets.

If complainant knew the use that was being made of his telephonic news service, and there was no other use for his service except that of bookmaking, then he has approached, if not reached, the position of an accessory to the commission of a felony. Stating it otherwise, if this news service of complainant had no other use than to aid and abet in carrying on the unlawful business of bookmaking, and if complainant rendered the service with knowledge of these facts, then his telephone service was being used as an instrumentality to violate the law within the meaning of the Company's rule.

The evidence shows that complainant had the exclusive agency for the dissemination of his news service in Kansas City and western Missouri, and that no one else was rendering such a service in that territory. All the bookmaking places raided by the Kansas City police and the state highway patrol were receiving racing news over the telephone. At the trial of an injunction suit before Judge Cook of the circuit court of Jackson county, complainant testified that he could not think of any kind of a business other than a booking business that would want his service. When confronted with that testimony, he did not deny it, but attempted to excuse it by saying that he did not mean it that way and that at the time it was given he was confused. Complainant also admitted that at this same hearing before Judge Cook, he testified that he knew that his service was being used by "book joints." This also he attempted to excuse upon the ground of confusion.

He also admitted that in his testimony before Judge Cook he stated that in 1938 he went to places that were receiving this rapid news service and that they were bookmakers, but also sought to excuse this testimony by saying he was confused when he so testified.

Testimony of this kind given before Judge Cook is not only revealing upon the question of complainant's knowledge of the unlawful use of his service, but is not compatible with the ignorance of his business which complainant professed at the hearing before this Commission. We think this evidence is sufficient to establish guilty knowledge upon the part of complainant. Even without this testimony by complainant, we think the record as a whole justifies the inference that complainant knew that his service was used exclusively by bookmakers. We are convinced, from all the evidence, that complainant's service had no purposes other than to aid and abet the carrying on of an unlawful enterprise; therefore, we conclude that the charge of the governor and attorney general, that complainant's telephone service was being used as an instrumentality to violate the law, was founded upon truth and fact and that the Company acted with propriety in applying the rule to complainant.

[14] Had the Company had no such rule, we still think, as pointed out in Pioneer News Service v. Southwestern Bell Teleph. Co. *supra,* that the Company could, with propriety, cut off complainant's service when it found the service was being used in the furtherance of an unlawful enterprise, and we would have approved such action by the Company in this case, had it not had it rule.

While this question has not been passed upon by the appellate courts of Missouri, other courts have considered the question under comparable facts and we believe the weight of authority throughout the United States supports our views. Giordullo v. Cincinnati & Suburban Bell Teleph. Co. (1946) — Ohio Op —, 68 PUR NS 269, 71 NE 2d 858; Howard Sports Daily v. Public Service Commission (1941) 179 Md 355, 38 PUR NS 197, 18 A2d 210; People ex rel. Restmeyer v. New York Teleph. Co. (1916) 173 App Div 132, 159 NY Supp 369; Shillitani v. Valentine (1945) 269 App Div 568, 60 PUR NS 382, 56 NY Supp2d 210; same case (1947) 296 NY 161, 67 PUR NS 150, 71 NE2d 450; Tracy v. Southern Bell Teleph. & Teleg. Co. (1940) 38 PUR NS 527, 37 F Supp 829; Fogarty v. Southern Bell Teleph. & Teleg. Co. (1940) 35 PUR NS 296, 34 F Supp 251; Smith v. Western U. Teleg. Co. (1887) 84 Ky 664, 2 SW 483; Godwin v. Carolina Teleph. & Teleg. Co. (1904) 136 NC 258, 48 SE 636, 67 LRA 251, 103 Am St Rep 941, 1 Ann Cas 203; Western U. Teleg. Co. v. State ex rel. Hammond Elevator Co. (1905) 165 Ind 492, 76 NE 100, 3 LRA NS 153, 6 Ann Cas 880.

[15] Complainant raises the point that the Company rule in its application to him constitutes a taking of his property without due process of law in violation of the Constitution of the United States and the Constitution of the state of Missouri. As heretofore pointed out, the fact that the Company's action under its rule opened the door of this Commission for the filing

of the complaint under consideration, in our judgment serves the requirements of due process.

Being of the opinion as heretofore expressed, it is, therefore,

Ordered: 1. That the complaint of Simon Partnoy, an individual doing business as Harmony Publishing Company of Kansas City, Missouri, against the Southwestern Bell Telephone Company, be and the same is hereby dismissed.

Ordered: 2. That this order shall become effective on the 24th day of June, 1947, and the secretary of the Commission shall serve certified copies hereof upon all interested parties in the manner provided by § 5601, Rev Stats Mo 1939.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re Charles N. Carone

Application Docket No. 63767, F. 1
June 23, 1947

COMMISSION *complaint against motor carrier for failure to pay annual assessment imposed by Commission; operating rights revoked.*

Commissions, § 58 — Assessment against utility — Payment by bad check.

1. An uncollectible check does not amount to payment of an assessment imposed by the Commission, p. 151.

Certificates of convenience and necessity, § 147 — Jurisdiction of Commission — Revocation — Nonpayment of assessment.

2. The Commission may revoke a carrier's certificate for failure to pay an assessment imposed by the Commission, p. 151.

By the COMMISSION: On January 10, 1947, the Commission instituted a complaint against Charles N. Carone, respondent, for failure to pay his general assessment for the year 1945. Said complaint ordered:

1. That said carrier answer in writing, under oath, on or before February 11, 1947, why its certificate of public convenience should not be canceled for having failed to pay said assessment; and that upon receipt of such answer, said carrier be notified of a time and place at which it may appear and be heard upon this matter.

2. That if said carrier shall fail to answer, on or before the date specified in paragraph one hereof, or having failed answer on or before that date, shall fail to appear at the hearing provided therefor, the charges set forth in this complaint shall be taken as admitted and the certificate of public convenience shall be canceled.

Respondent failed to file an answer to said complaint by February 11, 1947, but did on April 3, 1947, forward to the Commission his check in payment of his 1945 general assessment. On May 19, 1947, the Commission dismissed the complaint instituted on January 10, 1947.

Subsequent to the dismissal of the complaint, the check which respondent had issued in payment was returned unpaid for lack of funds. On May 29, 1947, the Commission directed respondent to forward a certified check or postal money order by June 10, 1947. Respondent has disregarded Commission's request, and in fact has failed to comply with the requirement of assessment reports for any of the assessment periods during which he has held a certificate.

[1, 2] It is a tacit condition that a check is accepted not as absolute payment but on condition that it shall be paid. An uncollectible check does not amount to payment: Gerrard Co. v. Tradesmen's Natl. Bank & Trust Co. (1935) 318 Pa 100, 17 Atl 760.

The Commission's order of May 19, 1947, dismissing the complaint, was made upon condition of payment. That condition was not subsequently fulfilled. Since respondent has failed to pay his 1945 assessment, which is a violation of the Public Utility Law, the Commission has the right to revoke respondent's certificate: Day v. Public Service Commission (1933) 107 Pa Super Ct 461, 1 PUR NS 109, 164 Atl 65; (1933) 312 Pa 381, 3 PUR NS 103, 167 Atl 565.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission

v.

Andrew Magyan

Complaint Docket No. 14177
July 21, 1947

APPLICATION *for reconsideration and rescission of order canceling certificate; denied.*

Certificates of convenience and necessity, § 23 — Restoration of canceled rights — Jurisdiction of Commission.

The Commission may not restore a canceled certificate for the sole purpose of facilitating consummation of its sale and transfer, since it cannot approve the sale of a certificate of public convenience.

By the COMMISSION: This matter comes before us upon petition of Andrew Magyan, respondent, and William Grimm, prospective transferee of

respondent's former rights, for reconsideration and rescission of the Commission's order in the above-entitled proceeding.

By order dated May 5, 1947, 69 PUR NS 276, the Commission canceled the certificate of public convenience issued to Andrew Magyan at A. 25095, Folder 3, because of his failure promptly to remit certain C.O.D. collections made by him or in his behalf to certain shippers who used his service and were entitled to said remittances. Petitioners now request us to effectuate, by rescission of said order, a restoration of the canceled rights so that petitioners may consummate a sale and transfer of said rights.

We have heretofore held that this Commission cannot approve the sale of a certificate of public convenience. Re Brackenridge Bus Co. (1940) 36 PUR NS 485; Re East Penn Transp. Co. (1941) 41 PUR NS 316. Consequently, we may not restore canceled rights for the sole purpose of facilitating consummation of the sale and transfer thereof. Petitioners ask us to do nothing more or less; therefore,

It is *ordered:* That the prayers of the instant petition be and are hereby denied.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission

v.

Erie Railroad Company

Complaint Docket No. 14135
August 18, 1947

MOTION *by railroad to dismiss complaint of Commission against railroad's abandonment of portion of track without Commission approval; denied.*

Crossings, § 11 — Commission jurisdiction — Interstate railroads — Abandonment of service.

1. The Commission has jurisdiction over the abolition of crossings located on the line of an interstate railroad where the Interstate Commerce Commission, but not the state Commission, has given consent to the abandonment of service on the line, p. 153.

Interstate commerce, § 69 — State Commission jurisdiction — Railroad abandonment.

2. The duty imposed on railroad companies to make application to the state Commission for approval before discontinuing any regular intrastate line is not an unlawful burden upon, or regulation of, interstate commerce even though the trains are part of an interstate railroad system, p. 153.

Service, § 34 — State Commission jurisdiction — Effect of application to Interstate Commerce Commission.

3. The state Commission has jurisdiction over the abolition of service on an intrastate branch of a railroad which is part of an interstate system, and the filing of an application before the Interstate Commerce Commission for permission to discontinue would not of itself divest the state Commission of jurisdiction, p. 153.

By the COMMISSION: The Commission on its own motion instituted this investigation to determine why the Erie Railroad Company should not file application for the Commission's approval of (1) the abandonment of intrastate service on that portion of the Hoytville Branch of the Erie proposed to be abandoned, and (2) the abolition of any public highway crossings on that portion of the Hoytville Branch proposed to be abandoned. In answer to this complaint, the Erie Railroad has filed its motion to dismiss the complaint, alleging that the Commission is without jurisdiction of the subject matter, and is without power to hear and determine whether the Erie Railroad should file application for the approval of abandonment of intrastate service or the abolition of any public highway crossings located on that portion of the Hoytville Branch proposed to be abandoned in accordance with the approval of the Interstate Commerce Commission. Erie states that the Interstate Commerce Commission has paramount and exclusive jurisdiction.

The portion to be abandoned, however, lies wholly within the state of Pennsylvania. Application was first made to the Interstate Commerce Commission asking approval of abandonment of service over the Hoytville Branch.

[1] By the authority of § 409 of the Public Utility Law, the Public Utility Commission has jurisdiction over the abolition of crossings located on the line of a railroad which is a part of an interstate system, or which is owned by an interstate system, where the Interstate Commerce Commission has approved the abandonment of the said line if the Public Utility Commission has not consented unconditionally to such abandonment: Formal Opinion of the Attorney General, No. 482, dated December 3, 1943–44, Ops. Atty. Gen. 171. The proceeding so far as it relates to grade crossings should be maintained.

[2] The jurisdiction of the Interstate Commerce Commission on abolition of service is not exclusive in a case where the intrastate branch is a part of a system engaged in interstate service. The duty imposed on railroad companies to make application to the proper state Commission for its approval before discontinuing any regular intrastate trains, is not an unlawful burden upon or regulation of interstate commerce. State ex rel. Railroad Comrs. v. Atlantic Coast Line R. Co. (1910) 61 Fla 799, 54 So 900; St. Louis-S. F. R. Co. v. Alabama Pub. Service Commission, 279 US 560, 73 L ed 843, PUR1929D 52, 49 S Ct 383.

[3] The Pennsylvania Public Utility Commission would therefore have jurisdiction over the abolition of service on that part of the branch proposed to be abandoned; and the filing of an application for abolition before the In-

terstate Commerce Commission would not of itself divest this Commission of jurisdiction. The proceeding as it relates to the abolition of service intrastate should be entertained; therefore,

It is *ordered:*

1. That the motion to dismiss is denied.

2. That the Erie Railroad Company, respondent, file its answer to this proceeding within fifteen days of date of service hereof, and that the case be listed for hearing upon due notice to the respondent.

WISCONSIN PUBLIC SERVICE COMMISSION

Re Nelson Telephone Company

2-U-2411
August 15, 1947

APPLICATION *by telephone company for Commission approval of dissolution; conditional approval granted.*

Corporations, § 15 — Dissolution — Operation by stockholders — Conditions necessary for approval.

The Commission will permit a telephone corporation to dissolve and turn over its operations to the stockholders only after the stockholders have formed a legal entity which the Commission may charge with the duty of serving the public.

Public utilities, § 1 — Service continuation after company dissolution — Status of new telephone association.

Statement that the status of an entity desiring to take over and continue the utility business of a telephone company contemplating dissolution should be clearly defined so that the public and the Commission might know with certainty with whom they are to deal, p. 155.

By the COMMISSION: Nelson Telephone Company, a corporation of this state, Nelson, Buffalo county, on May 20, 1947, filed with this Commission application, pursuant to the provisions of § 181.03, Statutes, to dissolve the Nelson Telephone Company as a corporation but to continue the operation of the telephone business by the stockholders in their individunal capacities.

Notice of hearing was issued on May 29, 1947.

Nelson Telephone Company, a telephone public utility, renders service in the towns of Maxville, Modena, and Nelson, Buffalo county, and Durand, Pepin county. The applicant has a

magneto switchboard telephone exchange in the town of Nelson which serves approximately 165 subscribers in the above-named towns over circuits which are partly metallic and partly grounded.

The principal consideration before the Commission in the proposed dissolution of any utility corporation is whether the service which that corporation has undertaken will be performed after the dissolution is consummated. If some legal entity other than the Nelson Telephone Company is to take over the continuation of service which the Nelson Telephone Company has heretofore rendered, that legal entity should be clearly defined so that the public and this Commission may know definitely with whom they have to deal. We do not think that the public interest would be properly safeguarded if the operation of the utility business of Nelson Telephone Company were merely turned over to its existing stockholders without any legal organization of them into a partnership or other legal entity which, as such, would be chargeable with the duty of furnishing service to the public. In other words, we do not think it proper for the ownership of the property of Nelson Telephone Company to be vested in a number of common owners who are not partners and whose individual responsibility for the continuance of service is nebulous, to say the least. Under such circumstances, the maxim that everybody's business is nobody's business would apply.

The Commission has no objection to the dissolution of Nelson Telephone Company, provided that a partnership composed of some or all of the existing stockholders of the company, or other legal entity, is created which will take over the ownership and can and will operate the company's property and assume the duty of service which the company is now obligated to give.

The Commission finds:

That the proposed dissolution of Nelson Telephone Company is consistent with the public interest, provided that a partnership consisting of some or all of the present stockholders of Nelson Telephone Company, or some other legal entity, is created which is ready and able to furnish telephone public service to that portion of the public to which Nelson Telephone Company is now obligated to render such service and which will acquire the property of the company immediately upon its dissolution.

ORDER

It is therefore *ordered:*

That the consent and approval of the Commission be and hereby is given to Nelson Telephone Company to dissolve said corporation, provided that this order shall be and become effective only upon the filing with and approval by this Commission of documents submitted to it which create a legal entity responsible for the continuation of the present undertaking and obligation of service of Nelson Telephone Company.

WISCONSIN PUBLIC SERVICE COMMISSION

Re Amberg Telephone & Telegraph Company

2-U-2395
September 20, 1947

APPLICATION *by telephone company for authority to increase rates; temporary increase authorized.*

Rates, § 553 — Telephones — Year-around service — Ability to pay.

1. Rural and 4-party residential rates of a telephone company located in a resort area should be kept as low as possible to attract year-around subscribers, whose ability to pay is in sharp contrast with that of business and seasonal subscribers and private clubs and lodges, p. 157.

Rates, § 156 — Need for increase — Construction and repairs.

2. A telephone rate increase was allowed where needed construction and repair work could not be completed without additional revenue and where the financial condition of the company would be seriously impaired if rates remained at present levels, p. 157.

Rates, § 653.1 — Retention of jurisdiction by Commission — Future revenues.

3. The Commission will retain jurisdiction over a telephone rate proceeding where it is impossible to forecast what effect new rates will have on company revenue, p. 158.

By the COMMISSION: The Amberg Telephone and Telegraph Company, Wausaukee, Marinette county, on April 21, 1947, filed an application with the Commission for authority to increase rates at exchanges in Wausaukee, Crivitz, Goodman, and Pembine, all in Marinette county. Proof of the service of a notice of such application upon the Federal Office of Temporary Controls and of consent to the timely intervention of such agency in this proceeding was filed by applicant on April 30th. A notice of investigation and hearing and assessment of costs was issued on May 12th.

APPEARANCE: Robert H. Keating, Manager and President, Wausaukee, for Amberg Telephone and Telegraph Company.

Applicant serves the communities of Wausaukee, Crivitz, Goodman, Amberg, and Pembine. The company has magneto switchboards in Wausaukee, Crivitz, Goodman, and Pembine. There were 304 company and 7 switched stations connected as of May 31, 1947. All urban and rural circuits are metallicized.

Applicant had an operating loss of $2,363 in 1946 and seeks increased rates which it estimates will reduce the loss to $993 per year. In addition to the matter of increased revenues

there are several questions involving the application of rates and rules to specific subscribers. An investigation by a member of the Commission's staff revealed some discriminatory practices in application of the rates which can be corrected if a comprehensive schedule of rates and rules is prescribed.

[1] The company serves a very different area from that of the average small telephone company in Wisconsin. Each community is small, and the number of telephones connected is below the most economical point with respect to operators' wages per station. The rural area consists mostly of cut-over forests with scattered settlers on low-income farms. There are numerous streams and lakes, and many seasonal cottages have been built on their shores. In addition, there are six or more large private clubs or resorts located 6 to 16 miles from the nearest exchange. Seasonal subscribers originate considerable toll business, which varies widely from year to year. Present rates are high due to the nature of the territory served.

Company ownership changed on July 15, 1946, and the present manager and owner has done considerable maintenance work since taking over. He found the plant in bad condition, and much of the work now being done should have been taken care of in prior years. This condition accounts, in part, for the sharp rise in maintenance expenses. The average age of the plant is estimated at twenty-five years, and consequently a considerable amount of replacement will be necessary in the next five years. Planned installation of automatic switchboards in three of the four exchanges unquestionably will reduce operating expenses by a large amount.

When the company completes its program of rehabilitation of the plant and installation of automatic switchboards, costs of operation can be reduced. Eventually the company can double the number of subscribers if the service and rates are made attractive enough. Revenues will increase accordingly. Rural residential and 4-party residential rates should be kept as low as possible to attract year-around subscribers whose ability to pay is in sharp contrast with that of business and seasonal subscribers and private clubs and lodges. Maintenance expenses will decrease when the outside plant has been completely reconditioned. The amount of fixed charges will increase with the contemplated installation of dial equipment but will be offset by reduced operators' wages. These factors make it difficult to estimate pro forma expenses. Other factors, already indicated, make estimates of revenues difficult.

[2] The present owner does not have the immediate capital necessary to proceed with all of the needed construction, and it is evident that the financial condition of the company will be seriously impaired if rates remain at their present levels.

A comprehensive schedule of rates and rules is needed to correct the following conditions:

Several PBX boards are connected to the lines of the company, yet no rate for such service is on file.

Several private clubs are receiving the equivalent of urban service without paying mileage charges.

The company has no rates on file for

public pay, semi-public pay, or coin-collector devices.

The company does not have an extension rule for extension of service.

The company does not have a seasonal service rate.

The company does not have rules governing the definition of business or residence service, or other questions which normally arise in the conduct of the business.

The company applies a toll rate for messages between Amberg and Wausaukee, Dunbar and Pembine, Athelstane, and Wausaukee, even though Amberg subscribers and Athelstane subscribers are switched at Wausaukee and Dunbar subscribers are switched at Pembine. This practice is discriminatory. The company should be authorized to apply the same toll schedule as the Wisconsin Telephone Company for toll messages between its four exchanges.

The night call charge of 15 cents is a source of subscriber ill will, and the company requests its discontinuance.

[3] Higher rates than those herein prescribed would exceed the value, although not the cost, of the service and probably would result in reduced revenues through loss of subscribers. Yet the future of the company and its ability to continue operation depends on the financial ability of the owner to complete the planned construction program. The rates herein ordered are a compromise between these two factors. Because of the unusual situation of the company as described above, a reliable forecast of what the new rates will do to revenue cannot be made. Consequently, the rates will be ordered on a temporary and experimental basis, subject to review and change from time to time. Jurisdiction will be retained in this proceeding for that purpose.

The Commission finds:

1. That present rates and rules of the Amberg Telephone and Telegraph Company are unreasonable and unjustly discriminatory.

2. That the rates and rules herein ordered are reasonable as temporary and experimental rates subject to periodic review.

Order

It is therefore *ordered:*

1. That the Amberg Telephone and Telegraph Company be and hereby is authorized and directed to place the following rates and rules in effect effective with first billings subsequent to the date of this order:

	Monthly Gross	Rate Net
Urban Service[1]		
Business		
One-party	$3.15	$3.00
2-party	2.90	2.75
4-party	2.65	2.50
Extension	...	1.00
Residence		
One-party	2.65	2.50
2-party	2.40	2.25
4-party	2.00	1.85
Extension	...	.75
Rural Multiparty Service.[2]		
Business	$2.65	$2.50
Residence	2.15	2.00

[1] The urban rates applies to service within the corporate limits of Wausaukee, and within a radius of ½ mile of the central office in the Pembine, Goodman, and Crivitz exchanges. Mileage charges apply for urban service outside the base-rate boundary.

[2] The basic rates for rural service apply for service within a radius of 6 miles of the central office. A mileage charge is applied of 25 cents per mile for each mile or fraction thereof beyond a radius of 6 miles of the central office.

Switching Service

a. Where the switched company furnishes their own telephone and services their own line, the rate is 50 cents net per telephone per month.

b. Where the company furnishes and installs the wire, cross arms and insulators on the poles of the switched company and maintains the line, the rate is $1 net per station per month.

c. The telephone company will bill a single person appointed by the switched company, who will be responsible for collection of any sums due for exchange and toll service of the subscribers. If the switched company fails to pay for service rendered, the entire line becomes subject to disconnection.

Billing Rule

Telephone service is billed at the gross rate. If the bill for telephone service is paid on or before 15 days from the date of the bill, the net rate applies. The gross rate applies to bills paid after 15 days from the date of the bill. If the bill for service is not paid on or before 25 days from the date of the bill, the service becomes subject to disconnection upon 5 days' written notice.

Deposit and Guaranty Rule

The company may, when credit of the customer has not been established or has become impaired by failure to pay service bills, require a cash deposit equal to one month's exchange service and two months' estimated toll bills to insure payment of the service bill. The company will pay the subscriber 5 per cent simple interest on the deposit when it is returned. Cash deposits will be returned to the subscriber after 2 years' continuous service provided the subscriber has paid net bills at least 22 months of such period or has otherwise proven his credit to the satisfaction of the company.

Miscellaneous Services

	Net per month
Extension bells—4-inch or less	$.25
Extension gongs—6-inch	.50
Coin collectors	.25

Installation and Move Charges

(nonrefundable)	
Original installation	$2.25
Outside move	2.25
Inside move	1.50
Change in type of instrument	2.25

No charge is made to a new subscriber or when a subscriber moves if the instrument is in place or for an extension telephone installed at the same time as the main station.

Mileage Charges

For urban service outside the base-rate area the following monthly charges will apply for each ½ mile or fraction thereof air-line distance beyond the base-rate boundary on a 12 months' basis. These charges are in addition to the rates specified in the exchange tariff for the class of service desired and in addition to construction charges when applicable.

Individual or trunk line	$.50
2-party line, each main station ..	.30
4-party line, each main station ..	.20

Two-party service is furnished only when there are two parties available and 4-party service is furnished only when there are at least three parties available.

Seasonal Service Rate

Where it is necessary for the telephone company to maintain plant throughout the year in order to be able to furnish service during the summer months or other seasonal period to certain customers, such customers will be required to enter into a seasonal service contract in recognition of the fact that the telephone company maintains an investment throughout the year.

Seasonal service shall be contracted for at the rate for 12 months' exchange service for the particular class of service to be furnished, with mileage charges when applicable, less 30 per cent of the exchange rate excluding mileage charges. Service furnished under such contracts shall not exceed 8 months except in case a customer desires to retain the service for a period longer than 8 months and so advises the company. The regular monthly rate will be charged for each additional month or fraction thereof such service is retained.

Each seasonal customer will be billed in advance and required to pay in advance, except that if he has established a satisfactory credit rating he may be billed in 12 monthly instalments.

Service connection charges do not apply to subsequent reconnections once service has been installed.

Definition of Business or Residence Service

a. The determination as to whether telephone service should be classified as business or residence is based on the character of the use to be made of the service. Service is classified as business service where the use is primarily or substantially of a business, professional, institutional, or otherwise occupational nature. Where the business use, if any, is incidental and where the major use is of a social or domestic nature, service is classified as residence service if installed in a residence.

b. Business rates apply at the following locations, among others:

1. In offices, stores, and factories, and in quarters occupied by clubs, lodges, fraternal societies, schools, colleges, libraries, hospitals, and other business establishments.

2. In any residence location where there is substantial business use of the service and the customer has no service elsewhere at business rates.

c. Residence rates apply at the following locations, among others:

1. In private residences, in the residential portion of hotels, apartment houses, boarding houses, churches, or institutions when the use of the service is confined to the domestic use of the customer and listings of a business character are not furnished.

Rural Extension Rule

The telephone company will extend its rural lines a distance of one-half mile for each applicant for service at its own expense. When an extension exceeds one-half mile per applicant, the cost of the extension in excess of one-half mile per applicant (or a labor and/or materials contribution equivalent to the excess cost) shall be paid by the applicant or applicants for service. The title to the telephone property is to remain with the company, and the company shall be responsible for the maintenance and replacement thereof.

If a new application for service from an extension, part of which has been paid for by customers, is made within 3 years after completion of the extension, the cost of the extension will be computed on the basis of the additional applicant or applicants having been included with original application and the new applicants charged accordingly. If the contribution required of such additional applicants is less than that of the original customers on the extension, the difference will be refunded to the original customers or to the current owners of the premises if a change in ownership has occurred.

Minimum Period Contract

Where an extension of facilities is required to serve rural subscribers, the minimum contract period shall be as follows:

Length of Extension	Minimum Period
One pole or less	1 month
More than 1 pole but less than 10 poles	1 year
More than 10 poles but less than 15 poles	2 years
More than 15 poles	3 years

Night Calls

No charge.

Allowance for Interruptions

In the event of an interruption to the service, which is not due to the negligence or willful act of the customer, an allowance will be made after written notice to the telephone company if such interruption continues for more than 24 hours computed on the basis of the monthly rate or monthly guaranty for such of the service, equipment, and facilities furnished at the time of interruption that is rendered useless or inoperative because of the interruption. In the case of special services, the pro rata allowance may be computed for interruptions of less than 24 hours.

Public Telephone Service

Public telephones equipped with multicoin-collecting devices will be installed at the initiative or option of the telephone company with the consent of the subscriber at locations which in its judgment are suitable and necessary for furnishing service to the public.

Public telephones are installed in locations available to the public.

Local calls from public telephones, 5 cents each.

Guaranty—No guaranty required.

Private Branch Exchanges

a. Where the company owns and maintains the equipment.

Switchboard including batteries and operator's set, nonmultiple.
10 lines or less—net per month $6.00
Each station connected—net per month .50
Each trunk line—same rate as one-party business

b. Where the subscriber owns and maintains the equipment [1]

Each station connected—net per month $.25
Each trunk line—same rate as one-party business

[1] The company will upon request of the subscriber maintain the PBX equipment. The subscriber will be billed for labor and materials used at actual cost to the company for any maintenance work done at subscriber's request.

Semipublic Telephone Service

Semipublic telephones, equipped with multicoin-collector devices, will be installed at the initiative or option of the telephone company with the consent of the subscriber at locations where, in the judgment of the telephone company, the need for service represents a combination of public and subscriber's usage, or where there is a collective use of the service by the subscriber and a relatively permanent body of guests, members, employees, or occupants.

Within the base-rate area this class of service will be furnished by means of individual lines.

Guaranty—The subscriber shall guarantee monthly revenue from local calls at 5 cents each equal to the scheduled business rate. The subscriber is allowed a credit of 2 cents per local call for revenue in excess of the guaranty.

Toll Rates

The rates, rules, and regulations governing point to point intrastate toll message service as filed by the Wisconsin Telephone Company with the Public Service Commission of Wisconsin apply to the messages between exchanges of the company and between exchanges of the company and exchanges of other companies.

2. That jurisdiction be and hereby is retained herein for review and revision, if necessary, of the rates hereby ordered.

Industrial Progress

A digest of information on new construction by privately managed utilities; similar information relating to government owned utilities; news concerning products, supplies and services offered by manufacturers; also notices of changes in personnel.

Lectures on Wiring Prepared by EEI

Two illustrated lectures on wiring, one covering the basic facts of residential wiring, the second on commercial building rewiring, have been prepared by the Wiring and Specifications Committee of the Edison Electric Institute, of which R. F. Hartenstein is chairman, and published by EEI.

Intended to help the electric utility to spread knowledge of the new wiring materials and modern methods among customer groups, architects, electrical contractors and inspectors, builders and building managers, the lectures are arranged in several sequences, each of which is designed to appeal most effectively to the interests of a specific audience. Special introductions and closing remarks, prepared for each group, are also included.

Sets of Kodachrome slides are provided as integral parts of the talks, to assist the speaker in dramatizing the importance of adequate wiring, and to assure full audience understanding of each point.

The wiring lectures, with sets of 48 slides for the residential presentations, and 45 slides for the commercial wiring talks are available at the Edison Electric Institute, 420 Lexington avenue, New York 17, N. Y., at $25.00 per set.

I-T-E and R. & I. E. Merge

The I-T-E Circuit Breaker Company of Philadelphia, has announced the acquisition of the Railway and Industrial Engineering Company, of Greensburg, Pennsylvania, effective November 1, 1947.

This merger is significant to the electrical industry because it unites two prominent manufacturers of electrical switchgear equipment. I-T-E has been a pioneer in the field of air circuit breakers and assembled switchgear utilizing air circuit breakers. R.&I.E. are primarily manufacturers of high voltage disconnect switches and outdoor unit substations. Both companies have been active in the development and sale of high voltage isolated phase bus.

Operation of both the I-T-E Company, and the R.&I.E. Company will continue as formerly. Gross annual volume of business for the combined companies is estimated to be in excess of 20 million dollars.

W. M. Scott, Jr., president of the I-T-E Circuit Breaker Company will be elected president of R.&I.E. B. W. Kerr, who has headed R.&I.E. for 37 years, will become board chairman of R.&I.E., and chairman of the Executive Committee of the Board of I-T-E.

Electrical Living Committee Issues Home Planning Booklet

"Planning Your Home for Better Living — Electrically" is the title of a 32-page, four-color booklet just published by the Electrical Living Committee.

Intended to serve as a guide for both the home buyer and the home remodeler, the booklet emphasizes the importance of intelligent prior planning, and proper selection of equipment, to insure easier living and a really modern home. The low cost and greater efficiency gained by "building in" an adequate wiring system for the heavier electrical equipment is stressed throughout the booklet.

Text and illustrations are used to take the reader on a tour through every room in the

average home, showing how each should be planned for the best use of electrical servants.

Copies of the booklet are available at the Electrical Living Committee, 420 Lexington avenue, New York 17, New York, at 25 cents each. Quantity prices are available on request.

Issues Folder on Formula A-N-1

BENSON LABORATORIES, INC., Bessemer Building, Pittsburgh, Pennsylvania, has published a new folder describing its Formula A-N-1 for the treatment of certain symptoms of the common cold.

Listed in the folder are a number of representative users of Formula A-N-1. Included in this group are many utility companies.

G-E Appointment

RAY C. SANBORN has been appointed manufacturing planning engineer for the General Electric wire and cable division, Bridgeport, Connecticut, and will be responsible for all planning activities within the division, according to an announcement by R. P. Allison jr., division manager.

New Protective Coating Catalog

A 12-PAGE catalog giving complete details on the chemical and physical properties, application instructions, and other pertinent data on protective coatings is available from the Amercoat Division, American Pipe and Construction Company, P. O. Box 3428, Terminal Annex 54, California.

Catalogs are available for 10 major industries, giving full technical information pertaining to each industry.

"All-weather" Manila Rope Returns to Market

AMERICAN MANUFACTURING COMPANY, makers of cordage, announces the return of AMCO treated "all-weather" Manila rope. During the war, the manufacture of this product was discontinued due to the shortage of necessary ingredients for the special cordage solution used. AMCO is made from high grade Manila fibre impregnated with an exclusive treatment to withstand the sun and water and resist fungus growths. It weighs exactly the same as regular first grade white rope.

Distinctively dark brown in color, AMCO can be identified by the red and green surface markers appearing in ¾ in. diameter and larger sizes.

Samples may be obtained by writing to the manufacturer, Brooklyn, New York.

Differential Pressure Controls

BULLETIN S-17, 4 pages, issued by The Swartwout Company, 18511 Euclid avenue, Cleveland 12, Ohio, illustrates and ex-

plains a new series of precision differential pressure master controls. Hook-up diagrams illustrating a number of application examples are included.

American Standard Code for Electricity Meters Revised

FORMAL approval of a wartime change which extended the length of the periods between tests of watthour meters has been given by the American Standards Association in a revised edition of the American Standard Code for Electricity Meters (C12).

The revision puts the longer periods into effect for peacetime use. Action by the Association followed acceptance of the revision by twenty members of a committee representing illuminating companies, electric light and power companies, electrical manufacturers, public service commissions, and the Rural Electrification Administration.

This committee works under the technical leadership of the Electric Light & Power Group and the National Bureau of Standards, which recommended the approval to the Association. Dr. F. B. Silsbee, chief, Division of Electricity and Optics, National Bureau of Standards, is chairman.

Copies of the American Standard Code for Electricity Meters (C12) with a supplement containing the 1947 revision, are available at $2.00. Those who already have a copy of the code can obtain the supplement separately at 25 cents per copy.

U. S. Rubber Appointment

APPOINTMENT of Clarence H. LeVee as manager of electricity utility sales was announced recently by the wire and cable department of United States Rubber Company.

Mr. LeVee will be responsible for the sale of wire and cable to electric light and power companies. His headquarters will be in the company's general offices, 1230 Avenue of the Americas, New York, New York.

PROFESSIONAL DIRECTORY

• This Directory is reserved for engineers, accountants, rate experts, consultants, and others equipped to serve utilities in all matters relating to rate questions, appraisals, valuations, special reports, investigations, design, and contruction. » » »

PROFESSIONAL DIRECTORY *(continued)*

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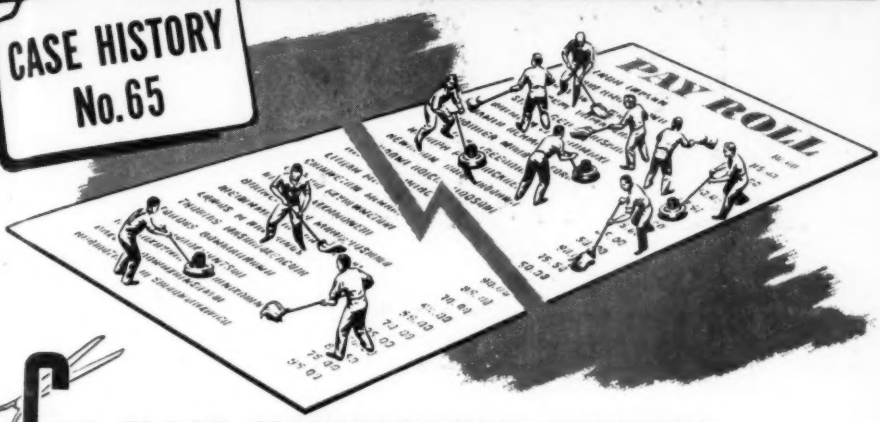
INDEX TO ADVERTISERS

[*The Fortnightly lists below the advertisers in this issue for ready reference. Their products and services cover a wide range of utility needs.*]

*Fortnightly advertisers not in this issue.

IN A SERIES OF SUCCESS STORIES WITH THE LEGGE SYSTEM OF NON-SLIP FLOOR MAINTENANCE

CASE HISTORY No. 65



CUT FLOOR MAINTENANCE EXPENSE *from* 64 *man-hours to* 6

EIGHT MEN toiled all night...a total of 64 man-hours...to give a floor of this institution its weekly polishing.

Then the Legge man outlined an economical Non-Slip floor maintenance program. Using the methods and materials he prescribed, three men now polish the same floor in only two hours.

"PERSONAL ENGINEERING" HOLDS COSTS DOWN

Wherever Legge technicians have *engineered* floor maintenance programs . . . in leading institutions, buildings and plants . . . accident-free floors at lower cost have resulted. The Legge advisor surveys floor conditions . . . tailors a workable program to those conditions . . . follows through with on-the-spot instruction of maintenance crews in money-saving techniques.

This tailor-made plan gives you savings three ways:

CORRECT FLOOR MAINTENANCE COSTS LESS

LEGGE'S 3-WAY PROTECTION

- √ Non-slip Safety
- √ High, Lustrous Finish
- √ Floor Preservation

YOUR 3-WAY SAVINGS

- √ Reduced Insurance Premiums
- √ Maintenance Costs 50% Lower
- √ Floor Replacement Unnecessary

(1) Longer lasting, more permanent finish . . . takes 25% less materials and half the labor.

(2) Protects and preserves the floor by eliminating harsh treatments and excessive wear.

SAFETY ALONE GIVES YOU BIG SAVINGS

(3) Has slashed floor accidents up to 95% for hundreds of users. Leading casualty insurance companies recommend the lasting anti-slip protection of a Legge program to policyholders to overcome slip hazards. Legge materials are also approved by testing laboratories.

HOW YOU CAN ELIMINATE "HIDDEN COSTS"

Compensation payments . . . liability claims . . . inflated insurance premiums . . . you can cut floor accidents and save these costly "extras" with the Legge System. Our free booklet, "Mr. Higby Learned About Floor Safety the Hard Way," tells how. It's yours without obligation. Just clip the coupon to your letterhead and mail.

LEGGE SYSTEM

OF *Non-slip* FLOOR MAINTENANCE

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Please send me your free book, "Mr. Higby Learned About Floor Safety the Hard Way."

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Title _____
Type of Floor _____
Area _____ sq. ft. P12

YOURS...

to help you pave the way for greater productivity

electrically

MORE POWER TO AMERICA is a co-operative program designed to help increase the productivity —and earning power—of Americans at their jobs. It aims to do this by providing the "tell-how" and "show-how" that will stimulate broader, more efficient use of electricity in industry and agriculture.

The manuals that are the backbone of this program are prepared by top-ranking engineers. Motion pictures or sound slidefilms provide a focal point for gatherings of all interested groups. Instructive booklets for your customers summarize the benefits of electrification.

Many of these programs have been mentioned in this space in the past. The latest, on oil-field electrification, has recently been released. It shows the benefits of modernization of oil production methods by more efficient use of electric power.

Your G-E representative will be glad to tell you all about these More Power to America Programs. *Apparatus Dept., General Electric Co., Schenectady 5, N. Y.*

From "Leases on the Future"—the full-color sound motion picture that forms part of the new MPA oil-field electrification program.

GENERAL ELECTRIC